ELLIOT BLOCK SBN 116999
Acting Chief Counsel
WENDY BRECKON SBN 182952
Senior Staff Counsel
Attorneys for Complainant
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
1001 I Street, 23rd Floor
P. O. Box 4025
Sacramento, CA 95812-4025
Telephone: (916) 341-6068
Facsimile: (916) 341-6082

STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of: EDWIN ORTIZ d/b/a GUERO'S TIRES, OPERATOR TPID No: 1373993 RESPONDENT.	ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES No: 2005-010929-ADC

The California Integrated Waste Management Board ("CIWMB") served an Administrative Complaint and Request for Hearing form on EDWIN ORTIZ d/b/a GUEROS'S TIRES (RESPONDENT), on May 12, 2006. RESPONDENT failed to file a Request for Hearing within fifteen days of service of the Administrative Complaint pursuant to Government Code 11505 (a). The matter shall be determined as a default pursuant to Government Code section 11520. The CIWMB takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Staff Counsel, CIWMB, acting in her official capacity.

2. EDWIN ORTIZ d/b/a GUEROS'S TIRES, is responsible for waste tires being

///

stored at 9517 Main Street (a/k/a Weedpatch Highway), Lamont, Kern County, California, Assessor's Parcel Number 178-320-47-00 (Subject Property). This site is not a permitted Waste Tire Facility (WTF).

3. This site was storing approximately 800 tires without a minor waste tire permit and was in violation of Title 14, California Code of Regulations (CCR), section 18420(a) – Applicability, which requires every operator of a minor or major waste tire facility (WTF) that stores, stockpiles, accumulates or discards waste tires to acquire a permit, and 14 CCR section 17354 – vector control and outside storage regulations.

4. On December 21, 2004, the Kern County Environmental Health Services Department, a Waste Tire Enforcement Grantee ("Inspector") of the CIWMB, conducted a Waste Tire Facility Inspection of GUERO'S TIRES and observed approximately 700 waste tires on the site. The tires were stored in a manner that violated the standards for facility access and security, storage, fire prevention, and vector control.

5. A review of CIWMB records revealed that no application for a minor waste tire facility was ever received from RESPONDENT.

6. A written report of the inspection and a Letter of Violation, dated December 28, 2004, was addressed and posted by U.S. Mail by the Kern County Environmental Health Services Department INSPECTOR to Samuel Gutierrez, former Operator of Guero's Tires, requesting that a Corrective Action Plan be submitted to the Grantee by January 28, 2005.

7. On March 23, 2005, the Grantee conducted a follow-up Waste Tire Facility Inspection of GUERO'S TIRES and observed approximately 700 waste tires still on the site. The tires were stored in a manner that violated the standards for facility access and security, storage, fire prevention and vector control.

8. A written report of the inspection and a "Warning: Notice of Violation," dated April 29, 2005, was addressed and posted by U.S. Mail by the Grantee to EDWIN ORTIZ, Operator of GUERO'S TIRES requesting that a Corrective Action Plan be submitted to the

///

Grantee by May 15, 2005.

9. On May 23, 2005, the CIWMB conducted a Waste Tire Facility Inspection of Guero's Tires and observed approximately 800 waste tires on the site. The tires were stored in a manner that violated the standards for facility access and security, storage, fire prevention and vector control.

10. Clean Up & Abatement Order 2005-010926-CAO dated July 15, 2005, was issued by the CIWMB to JAMES HOLTZCLAW , Property Owner, AND EDWIN ORTIZ, Operator of GUERO'S TIRES requesting that EDWIN ORTIZ, Operator either obtain a WTF permit or remove all waste tires from his location by August 18, 2005. Copies of destination receipts and waste tire manifests were to be submitted to the CIWMB on or before August 31, 2005.

11. On September 8, 2005, LEW ELLIOTT of the CIWMB conducted a follow up Waste Tire Facility Inspection of this location and determined that more than 150 waste tires were still located on site, and no copies of destination receipts and waste tire manifests and/or WTF Permit application were received by the CIWMB for the 550 waste tires removed from the site.

ADMINISTRATIVE DECISION

Good cause appearing therefore, the following Order is hereby made:

1) RESPONDENT, EDWIN ORTIZ d/b/a GUEROS'S TIRES; is ordered to pay an administrative penalty of $5,000.00 (five thousand dollars) to the California Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

This DECISION shall become effective June 21, 2006.

DATED: 6.21.06

MARGO REID BROWN
Chair
California Integrated Waste Management Board