

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

8
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

11 In the matter of:

12 JOHN DAVID DAVENPORT a/k/a DAVID

13 JOHN DAVENPORT

14 TPID NO: 1475289

15 RESPONDENT.

ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY No: 2007-010963-ADC

16
17
18 The California Integrated Waste Management Board ("CIWMB") served an
19 Administrative Complaint and Request for Hearing form on JOHN DAVID DAVENPORT
20 a/k/a DAVID JOHN DAVENPORT, an unregistered waste and used tire hauler
21 ("RESPONDENT"), on May 24, 2007. RESPONDENT did not file a Request for
22 Hearing. The matter shall be determined as a default pursuant to 14 California Code of
23 Regulations (CCR) section 18466 and Government Code section 11520. The CIWMB
24 takes action against RESPONDENT based upon evidence and affidavits that may be
25 used without any notice to RESPONDENT.

26 ///

27 ///

28 ///

1 **FACTUAL FINDINGS**

2 1. The Administrative Complaint was executed by WENDY BRECKON,
3 Senior Staff Counsel, CWIMB, acting in her official capacity.

4 2. RESPONDENT is responsible for the transportation of waste tires by a
5 person not holding a valid waste tire hauler registration from the CIWMB.

6 3. On or between October 10, 2006, and October 11, 2006, RESPONDENT
7 violated waste tire hauler laws when he hauled or was responsible for hauling two loads
8 of used or waste tires from the 800 block of Third street in Napa, California. Each load
9 consisted of 75 – 100 used and waste tires. Prior to the hauling of these two loads of
10 used or waste tires, MR. MARK GRAHAM, local enforcement authority for the County of
11 Napa, instructed RESPONDENT on the waste and used tire registration laws.

12 4. The CIWMB issued a Letter of Violation on October 12, 2006, explaining
13 the waste and used tire hauling laws.

14 5. On or about November 6, 2006, RESPONDENT again hauled or was
15 responsible for hauling used or waste tires as an unregistered waste tire hauler in
16 complete disregard of the applicable waste tire hauler registration requirements. On
17 that date, one load of waste or used tires consisting of approximately 75-100 tires was
18 transported from the location of the 800 block of Third Street, Napa, California.

19 6. On or between November 6, 2006 and December 14, 2006,
20 RESPONDENT, an unregistered waste tire hauler, hauled or was responsible for
21 hauling, one load consisting of 75 -100 used or waste tires from the 800 block of Third
22 Street, Napa, California.

23 7. On or about February 23, 2007, RESPONDENT, an unregistered waste
24 tire hauler, hauled 75-100 used or waste tires to Express Tire at 300 Benicia Road,
25 Vallejo, California. RESPONDENT attempted to sell the used tires to Express Tire.

26 8. On or about February 28, 2007, RESPONDENT, an unregistered waste
27 tire hauler, hauled 75-100 used or waste tires on the Napa –Vallejo Highway.

28 ///

1 **LEGAL CONCLUSIONS**

2 9. JOHN DAVID DAVENPORT a/k/a DAVID JOHN DAVENPORT is in
3 violation of PRC section 42951, which makes it unlawful to engage in the transportation
4 of waste tires unless holding a valid Used and Waste Tire Hauler Registration, unless
5 exempted as specified in PRC section 42954.

6 10. The CIWMB's authority to assess administrative penalties against
7 RESPONDENT as a waste tire hauler is set forth in PRC section 42962 and in 14 CCR
8 section 18464.

9 11. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty
10 tables, the requested penalty of \$4,000.00 (four thousand dollars) is within the CIWMB's
11 discretion.

12 12. No evidence of mitigation, extenuation or rehabilitation is offered.

13 **ORDER**

14 Good cause appearing, Complainant's motion to take action in accordance with
15 the provisions of Government Code Section 11520, subdivision (a) is granted.

16 THE FOLLOWING ORDER is hereby made:

17 RESPONDENT, JOHN DAVID DAVENPORT a/k/a DAVID JOHN DAVENPORT,
18 is ordered to pay an administrative penalty of \$4,000.00 (four thousand dollars) to the
19 California Integrated Waste Management Board within 30 (thirty) days of the date of this
20 Decision.

21 **RESPONDENT'S RIGHT TO FILE WRITTEN MOTION**

22 Pursuant to Government Code section 11520(c) RESPONDENT has a right to
23 serve a motion:

24 Within seven days after service on the respondent of a decision based on the
25 respondent's default, the respondent may serve a written motion requesting
26 that the decision be vacated and stating the grounds relied on. The agency
27 in its discretion may vacate the decision and grant a hearing on a showing of
28 good cause. As used in this subdivision, good cause includes, but is not
limited to, any of the following: (1) Failure of the person to receive notice
served pursuant to Section 11505. (2) Mistake, inadvertence, surprise, or
excusable neglect.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This DECISION shall become effective July 5, 2007.



MARGO REID BROWN
Chair
CALIFORNIA INTEGRATED
WASTE MANAGEMENT
BOARD