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8 STATE OF CALIFORNIA

9 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

10 In the Matter of:

11 EDWIN ORTIZ d/b/a GUERO'S TIRES,  
12 OPERATOR

13 TPID No: 1373993

14 RESPONDENT.

15 } AMENDED ADMINISTRATIVE DECISION  
16 } FOR WASTE TIRE STORAGE  
17 } ADMINISTRATIVE PENALTIES AND  
18 } FOR ISSUANCE OF PROBATIONARY  
19 } REGISTRATION

20 } Agency No: 2005-010929-ADC

21 } Agency No: 2007-000021-DEN

22 The parties to this STIPULATION FOR ISSUANCE OF AMENDED  
23 ADMINISTRATIVE DECISION FOR WASTE TIRE PENALTIES (hereinafter  
24 "STIPULATION") are the California Integrated Waste Management Board (CIWMB) and  
25 EDWIN ORTIZ d/b/a GUERO'S TIRES (RESPONDENT). An Administrative Complaint  
26 was served on May 12, 2006 and RESPONDENT failed to request a hearing within fifteen  
27 days of service of the Administrative Complaint pursuant to Government Code 11505 (a).  
28 Therefore a Default Decision was served on June 29, 2006 ordering RESPONDENT to pay  
\$5,000.00 (five thousand dollars). In addition, a STATEMENT OF ISSUES seeking to  
revoke the Waste Tire Hauler Registration was served on March 15, 2007.

RESPONDENT made two payments totaling \$917.00 between June 2006 and  
April 2007. The CIWMB issued demand letters, at which time he began negotiating a

1 settlement in this matter. Therefore, a Stipulation for Issuance of Amended Administrative  
2 Decision was negotiated.

### 3 **FACTUAL FINDINGS**

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

6 2. The CIWMB has authority to regulate and conduct enforcement actions regarding  
7 Waste Tire Storage Facilities and Waste Tire Haulers within the State of California under  
8 Public Resources Code (PRC) sections 42850 and 42962 et seq. and attendant regulations  
9 contained in Title 14 of the California Code of Regulations (CCR).

10 3. EDWIN ORTIZ, Operator d/b/a GUERO'S TIRES, was responsible for allowing  
11 the waste tires to be stored at 9517 Main Street (a/k/a Weedpatch Highway), Lamont, Kern  
12 County, California 93241, Assessor's Parcel Number 178-320-47-00. This site was an  
13 unpermitted minor waste tire facility pursuant to PRC section 42808.

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

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

21 6. A written report of the inspection and a "Letter of Violation," dated  
22 December 28, 2004, was addressed and posted by U.S. Mail by the Grantee to Samuel  
23 Gutierrez, former Operator of GUERO'S TIRES requesting that a Corrective Action Plan be  
24 submitted to the Grantee by January 28, 2005.

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

1 8. A written report of the inspection and a "Warning: Notice of Violation," dated April  
2 29, 2005, was addressed and posted by U.S. Mail by the Grantee to EDWIN ORTIZ, Operator  
3 of GUERO'S TIRES requesting that a Corrective Action Plan be submitted to the Grantee by  
4 May 15, 2005.

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

9 10. Clean Up & Abatement Order 2005-010926-CAO dated July 15, 2005, was  
10 issued by the CIWMB to JAMES HOLTZCLAW , Property Owner, and EDWIN ORTIZ,  
11 Operator of GUERO'S TIRES requesting that EDWIN ORTIZ, Operator either obtain a WTF  
12 permit or remove all waste tires from his location by August 18, 2005. Copies of destination  
13 receipts and waste tire manifests were to be submitted to the CIWMB on or before August 31,  
14 2005.

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

20 12. On May 8, 2006, an Administrative Complaint was issued by the CIWMB seeking  
21 Five Thousand Dollars (\$5,000.00) in administrative penalties for RESPONDENT'S failure to  
22 comply with the Clean Up and Abatement Order. RESPONDENT was advised he had 15  
23 (fifteen) days from the date he was served with the Administrative Complaint to request a  
24 hearing. He made no request for a hearing.

25 13. On June 21, 2006, the CIWMB issued an Administrative Decision ordering  
26 RESPONDENT to pay the sum of Five Thousand Dollars (\$5,000.00) in administrative  
27 penalties.  
28

1 14. On March 15, 2007, the CIWMB issued a Statement of Issues seeking to revoke  
2 RESPONDENT's Waste Tire Hauler Registration.

3 **LEGAL CONCLUSIONS**

4 15. RESPONDENT is in violation of PRC section 42845, which requires any person,  
5 upon order of the CIWMB, to clean up, abate or otherwise take remedial action at a WTF.

6 **ORDER**

7 The CIWMB approves of the terms of the Stipulation and good cause appearing  
8 therefore; the following Order is hereby made:

- 9 a) RESPONDENT, EDWIN ORTIZ d/b/a GUERO'S TIRES is ordered to pay the  
10 administrative penalty of \$2,500.00 (two thousand five hundred dollars) less  
11 payments already made. Therefore, RESPONDENT is order to pay \$1,583.00  
12 (one thousand five hundred eighty three dollars).
- 13 b) The CIWMB is to issue RESPONDENT a probationary waste tire hauler's  
14 registration for two (2) years if RESPONDENT meets the requirements of the  
15 waste tire hauler application process. Any violations of the terms and  
16 conditions of the Stipulation will result in revocation of the Waste Tire Hauler  
17 Registration.

18  
19 This DECISION shall become effective July 5, 2007.

20  
21  
22 DATED: 7/5/07

23   
24 MARGO REID BROWN  
25 Chair  
26 CALIFORNIA INTEGRATED WASTE  
27 MANAGEMENT BOARD  
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