ELLIOT BLOCK SBN 116999
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: JOE D. MARTIN a/k/a EDWARD F. MARTIN, d/b/a AM ENTERPRISES a/k/a MARTIN TRUCK SERVICE a/k/a MAR PAC TPID NO: 1299057-01 RESPONDENTS.	SUPPLEMENTAL ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES, AND FOR USED AND WASTE TIRE REGISTRATION AGENCY NO. 2006-010961-ADC OAH NO. 2007020073
In the Matter of : AM ENTERPRISES d/b/a MARTIN TRUCK SERVICE TPID NO: 1299057 RESPONDENTS.	AGENCY NO. 2006-000011-DEN OAH NO. 2007010066

INTRODUCTION

The California Integrated Waste Management Board ("CIWMB") attempted to serve an Administrative Complaint and Request for Hearing form on JOE D. MARTIN a/k/a EDWARD F. MARTIN, d/b/a AM ENTERPRISES a/k/a MARTIN TRUCK SERVICE a/k/a MAR PAC and AM ENTERPRISES d/b/a MARTIN TRUCK SERVICE ("RESPONDENTS"), these documents were not successfully served. The CIWMB

served an Amended Administrative Complaint on RESPONDENTS on January 19, 2007.

The CIWMB served a Statement of Issues for Waste Tire Hauler Registration, Right to a Hearing, and Request for a Hearing on RESPONDENTS on December 11, 2006. RESPONDENTS requested a hearing and matter was scheduled before the Office of Administrative Hearings on January 29, 2007.

The matter was heard before the Administrative Law Judge (ALJ), and after closing briefs, the record was closed and the matter submitted on March 7, 2007. A Proposed Decision was issued by the ALJ for adoption by the CIWMB. The CIWMB rejected the Proposed Decision on June 12, 2007.

On August 12, 2007, RESPONDENTS negotiated a Stipulation for Issuance of Administrative Decision ("Stipulation") with the CIWMB to resolve the issues in the Administrative Complaint.

The Board adopted and approved the Stipulation on August 22, 2007 in its Administrative Decision. On June 10, 2008, CIWMB issued a Notice of Default, explaining the reasons Respondent is in default. For the following reasons, Respondent has defaulted on the terms of the Stipulation.

FACTS IN SUPPORT OF DEFAULT OF STIPULATION

1. RESPONDENT is in default of the terms of the Stipulation. Respondent is in default for the following reasons:

a. **Failure to remove waste tires from the Kingsburg waste tire facility (Kingsburg Facility) located at 17265 South Bethel Avenue, Kingsburg, California 93631, Assessor's Parcel Numbers 056-050-23 and 002-010-001**.

All waste tires were to be removed from the premises and legally transported by a Registered Waste Tire Hauler to a CIWMB approved facility.

Respondent was allowed access to the Dow site, yet failed to clean up all of the waste tires on site as agreed. On November 2, 2007, approximately 2 months and 10 days after Respondent agreed to clean up the site, CIWMB staff conducted an inspection of the waste tire site operated by Robert Dow located at 17265 South Bethel Ave., Kingsburg, CA 93631. During that inspection, it was determined that 2,928 waste tires were being stored onsite. CIWMB staff inspected this waste tire site again on December 12, 2007, and determined that 600 waste tires were being stored onsite which included altered or shredded waste tires consisting of 200 tire sidewalls and approximately 600-800 tire cores.

b. **Failure to pay penalty as agreed in the stipulation and subsequent payment plan.**

Respondent failed to pay the penalty as agreed in the Stipulation and subsequent payment plan. In paragraphs 14 through 17 of the Stipulation, Respondent agreed to a penalty of ten thousand dollars ($10,000.00). Two thousand, five hundred dollars ($2,500.00) was due and owing, and seven thousand, five hundred dollars ($7,500.00) would be held in abeyance for two years after the issuance of the Administrative Decision. If Respondent defaulted on any terms or conditions of the Stipulation, the stay would be lifted and Respondent would owe the CIWMB ten thousand dollars ($10,000.00 dollars) less any payments already received.

On February 2, 2008, Respondent signed a payment plan agreeing to pay the CIWMB two hundred and fifty dollars ($250.00) per month. Respondent's first payment was due on or before March 1, 2008, and Respondent was to make payments of $250.00 due on the 1st day of each month thereafter until the full debt of the $2,500.00 is paid. If payment was not received by the 10th day of March and the 10th of each month after that, Respondent would be in default of

the payment agreement and the entire remaining balance will be immediately due and payable. CIWMB sent at least four invoices to Respondent requesting payment since September 11, 2007. As of today's date, Respondent has failed to pay any of the penalties owed to the CIWMB.

c. **Failure to manifest tires to illegal waste tire facilities.**

Paragraph 22 of the Stipulation states that Respondent shall "manifest all loads of used or waste tires, and submit all manifests to CIWMB".

Respondent failed to submit manifests to CIWMB for approximately 6,000 waste or used tires hauled to Fifth Wheel Truck Stop (6737 S. Golden State, Fresno) and to 4909 N. Hayes, Fresno on June 9, 2008. There were approximately 3,000 waste tires in unregistered trailers at the South Golden State location. In addition, at the N. Hayes location there were approximately 3,000 waste tires in unregistered trailers, and 2,000 waste tires on the ground. Both of these locations are illegal, unpermitted waste tire facilities that did not have a CIWMB Tire Program Identification Number.

d. **Respondent failed to cure default of Stipulation**

1. CIWMB notified Respondent that Respondent had ten (10) days from the receipt of the Notice of Default letter dated June 10, 2008, to respond to the violations. If the default was not cured within ten (10) days, then CIWMB would issue a decision indicating that 1) the penalties held in abeyance would become immediately due and owing; and 2) the CIWMB may revoke the subject used and waste tire hauler registration, and if revoked, Respondent waived any right to a hearing.
2. Respondent called Ms. Breckon on July 7, 2008, and stated he would send a payment in the mail. Respondent did not state that he would cure the amount past due, nor did Respondent state he would cure the other

violations indicated in the Notice of Default. As of July 16, 2008, no payment has been received by CIWMB.

LEGAL CONCLUSION

The California Integrated Waste Management Board (CIWMB) has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers within the State of California under Public Resources Code (PRC) sections 42960 and 42962. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

Furthermore, Respondent has violated the terms of the Stipulation as described above. The parties stipulated that failure to comply with the Stipulation is deemed a default of the terms of the Stipulation and subjects the Respondent to the penalty amount held in abeyance and revocation of the CIWMB hauler registration.

ORDER

GOOD CAUSE APPEARING THEREFORE, the following order is hereby made:

1. JOE D. MARTIN d/b/a AM ENTERPRISES a/k/a MARTIN TRUCK SERVICE is ordered to pay an administrative penalty of $10,000.00 (ten thousand dollars) less any payments already received to the CIWMB according to the terms of the Stipulation.

2. Respondent's 2008 CIWMB used and waste tire registration is hereby revoked.

This DECISION shall become effective 7/22/08.

Dated this 22 day of July, 2008.

MARGO REID BROWN
Chair
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD