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8
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

11 In the matter of:

12 MANUEL PACHECO dba PACHECO TIRE

13 Unregistered Hauler

14 TPID NO: 1005826

15 RESPONDENT.

ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY No: 2008-011087-ADC

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18 The California Integrated Waste Management Board ("CIWMB") served an
19 Administrative Complaint and Request for Hearing form on MANUEL PACHECO dba
20 PACHECO TIRE, an unregistered waste and used tire hauler ("RESPONDENT"), on
21 September 29, 2008. RESPONDENT did not file a Request for Hearing. The matter
22 shall be determined as a default pursuant to 14 California Code of Regulations (CCR)
23 section 18486 and Government Code section 11520. The CIWMB takes action against
24 RESPONDENT based upon evidence and affidavits that may be used without any
25 notice to RESPONDENT.

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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. RESPONDENT became registered as a tire hauler on August 15, 2000
7 and continued his tire hauling business to the present.

8 4. CIWMB sent RESPONDENT a renewal application package in October
9 2007, requiring RESPONDENT to renew their registration for 2008. Included in this
10 package was a "Zero Tolerance" letter in the application package, which stated that the
11 CIWMB would not be tolerant of haulers continuing to haul waste, or used tires without
12 a current CIWMB registration.

13 5. RESPONDENT'S 2007 registration expired on December 31, 2007.

14 6. On January 2, 2008, CIWMB issue a cancellation letter to Respondent,
15 advising Respondent that their registration had been cancelled and Respondent was no
16 longer allowed by law to haul 10 or more waste/used tires until they became registered
17 again.

18 7. Respondent unlawfully hauled waste or used tires on three occasions as
19 an unregistered waste and used tire hauler. The table below shows the CTL Form
20 Number, Transaction Date and Passenger Tire Equivalents of these violations:

21

22 CTL Form Number	Transaction Date	Passenger Tire
23 Equivalents (PTE)		
3569240-A	1/18/2008	140
3569241-A	1/19/2008	82
24 3569242-A	1/26/2008	55

25 8. RESPONDENT failed to submit a waste and used tire hauler application
26 until January 22, 2008.

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1 **LEGAL CONCLUSIONS**

2 9. MANUEL PACHECO dba PACHECO TIRE is in violation of PRC section
3 42951, which makes it unlawful to engage in the transportation of waste tires unless
4 holding a valid Used and Waste Tire Hauler Registration, unless exempted as specified
5 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 three thousand four hundred and fifty dollars
11 (\$3,450.00) is within the CIWMB's 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, MANUEL PACHECO dba PACHECO TIRE, is ordered to pay
18 an administrative penalty of three thousand four hundred and fifty dollars (\$3,450.00) to
19 the California Integrated Waste Management Board within 30 (thirty) days of the date of
20 this 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 This DECISION shall become effective

27th October '08

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5 MARGO REID BROWN
6 Chair
7 CALIFORNIA INTEGRATED
8 WASTE MANAGEMENT
9 BOARD
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