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STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the matter of: BROOKS ARDISMAE AKA ARDISMAE BROOKS; AND DEAN HULL AKA CLAUDE DEAN HULL, TPID NO: 1297891 RESPONDENTS.	ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42960 AGENCY NO. 2008-011089-ADC OAH NO. 2009-020417
In the matter of: BROOKS ARDISMAE AKA ARDISMAE BROOKS; AND DEAN HULL AKA CLAUDE DEAN HULL, TPID NO: 1297891 RESPONDENTS.	ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR THE DENIAL OF THE WASTE AND USED TIRE HAULER REGISTRATION, PUBLIC RESOURCES CODE SECTION 42960 AGENCY NO: 2009-000042-DEN OAH NO. 2009-020622

INTRODUCTION

Pursuant to Public Resources Code (PRC) section 42962, the California Integrated Waste Management Board ("CIWMB") served a Administrative Complaint for Waste Tire Hauler Administrative Penalties on January 7, 2009, to DEAN HULL AKA CLAUDE DEAN HULL; and to BROOKS ARDISMAE AKA ARDISMAE BROOKS on February 19, 2009, (RESPONDENTS). DEAN HULL requested a hearing on January 26, 2009. A hearing was scheduled for March 4, 2009, in Fresno, California. Pursuant to Public Resources Code (PRC) section 42960, the California Integrated Waste Management Board served a Statement of Issues for the Denial of Waste and Used Tire Hauler Registration on February 19, 2009, to BROOKS ARDISMAE AKA ARDISMAE BROOKS; AND DEAN HULL AKA CLAUDE DEAN HULL. On February 18, 2009, CIWMB requested that the cases be consolidated. On February 23, 2009, the Office of Administrative Hearings issued an order consolidating the cases. RESPONDENTS requested a continuance on February 24, 2009, which was agreed to by CIWMB and the Office of Administrative Hearings (OAH). The hearing was continued until June 30, 2009. Prior to the hearing, to avoid the uncertainties of litigation, the parties agreed to settle the consolidated cases, and put the terms of the settlement in the record at the hearing.

On July 30, 2009, RESPONDENT signed the Stipulation for Issuance of Administrative Decision for Waste Tire Hauler Administrative Penalties, and the Issuance of Administrative Decision for the Denial of Waste and Used Tire Hauler Registration (Stipulation), to resolve the allegations in the consolidated cases. Pursuant to the Stipulation, and good cause appearing therefore, the following Stipulated Factual Findings and Conclusions of Law are made, and the following Stipulated Order is issued.

STIPULATED FACTUAL FINDINGS

1. The CIWMB has the authority to regulate and conduct enforcement actions regarding Waste Tire Haulers within the State of California under PRC section 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. The CIWMB inspected this site on August 6, 2003, and determined that more than 5,000 waste tires were being stored at 5719 South Cedar Avenue, Fresno, California 93725.

3. CIWMB issued a Letter of Violation requiring the waste tires to be cleaned up on December 31, 2003.

4. The property owner, ARDISMAE BROOKS, requested a six month extension for cleanup.

5. CIWMB granted a 90 day extension until March 31, 2004;

6. On May 25, 2004, CIWMB inspected the site and determined that at least 4,000 waste tires were on the site.

7. On July 2, 2004, CIWMB issued Cleanup and Abatement Order no. 2004-01-777-CAO, ordering RESPONDENTS to contract with a registered waste tires hauler cleanup the waste tires on the site, and take the waste tires to a destination site approved by CIWMB, and to manifest each load of waste tires.

8. RESPONDENT DEAN HULL requested extensions to perform the cleanup. A February 17, 2005, inspection revealed that approximately 100 waste tires remained on the site. CIWMB requested manifests proving that the tires were taken to an authorized facility, and they were provided. CIWMB determined that the site was cleaned.

9. On or about February 5, 2008, inspectors determined that RESPONDENTS were storing more than 499 waste tires at the site creating an unpermitted waste tire facility pursuant to Public Resources Code section 42808.

10. On or about April 8, 2008, inspectors determined that RESPONDENTS were storing more than 499 waste tires at the site, including six truck trailers full of waste tires, creating an unpermitted waste tire facility pursuant to Public Resources Code section 42808.

11. On or about June 29, 2009, RESPONDENTS completed cleanup of the waste tires located at the site. RESPONDENTS represent they spent approximately $17,000 to cut up and dispose of the waste tires.

STIPULATED CONCLUSIONS OF LAW

12. The parties stipulate to the following violation of law:

a. CIWMB's authority to assess administrative penalties against RESPONDENTS is set forth in Public Resources Code section 42962 and 14 CCR section 18464. CIWMB's authority to deny the waste and used tire hauler registration is set forth in Public Resources Code section 42960.

b. RESPONDENTS failed to comply with Public Resources Code sections 42808 and 42834 by creating an unpermitted waste tire facility as stated in the above-mentioned Stipulated Factual Findings.

ORDER

13. The CIWMB approves of, and adopts the terms of the Stipulation, and the following order is hereby made:

(a) RESPONDENTS BROOKS ARDISMAE AKA ARDISMAE BROOKS; AND DEAN HULL AKA CLAUDE DEAN HULL is ordered to pay an administrative penalty in favor of the CIWMB in the sum of fifty thousand dollars ($50,000.00) for waste and used tire hauler penalties. Forty-three thousand dollars ($43,000.00) of this administrative penalty will be suspended and stayed for a period of two (2) years.

If RESPONDENTS default during the two year period subsequent to the issuance of this Administrative Decision, the stay will be lifted and RESPONDENT will owe the CIWMB up to the stipulated administrative penalty of up to fifty thousand dollars ($50,000.00), less any payments already received by CIWMB from RESPONDENTS.

(b) RESPONDENTS shall pay to the CIWMB the sum of $7,000.00 (seven thousand dollars) according to the terms of the stipulation.

14. The waste and used tire hauler registration issued to RESPONDENTS is denied for three years. If RESPONDENTS, or business entities associated with RESPONDENTS, including but not limited to a partnership, Limited Liability Company, or Corporation, apply for a CIWMB waste and used tire hauler registration, then CIWMB may deny or revoke the hauler registration without providing a hearing pursuant to PRC section 42960.

15. RESPONDENTS shall not violate any used and waste tire hauler laws pursuant to PRC section 42950 et seq., or waste tire storage laws pursuant to PRC section 42808 et seq.

The effective date of this Decision is 8/18/2009.

Margo Reid Brown

MARGO REID BROWN
Chair
California Integrated Waste Management Board