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8 STATE OF CALIFORNIA

9 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

10
11 IN THE MATTER OF: } ADMINISTRATIVE DECISION FOR
12 KIRK COFER; NEVADA TIRE RECYCLING } WASTE TIRE HAULER
13 INC. } ADMINISTRATIVE PENALTIES
14 TPID NO: 1004429 } PURSUANT TO STIPULATION
15 } AGENCY NO. 2007-010997-ADC
16 } OAH NO. 2008-110013
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RESPONDENTS.

INTRODUCTION

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) section 42962 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

The California Integrated Waste Management Board (CIWMB) served an Administrative Complaint and Request for Hearing form on KIRK COFER; NEVADA TIRE RECYCLING INC., hereinafter, "RESPONDENTS" on October 11, 2008. RESPONDENTS requested a hearing on October 15, 2008. A hearing was scheduled for December 29, 2008 in Sacramento, California. RESPONDENTS requested a continuance on November 18, 2008, which was denied by the Office of Administrative

1 Hearings (OAH). RESPONDENTS discussed obtaining a continuance with CIWMB
2 again on December 10, 2008. OAH approved of the parties' agreement to hold a
3 settlement conference on December 29, 2008, and continued the hearing until
4 February 23, 2009.

5 To avoid the uncertainties of litigation, RESPONDENTS negotiated a
6 Stipulation for Issuance of Administrative Decision for Waste Tire Hauler
7 Administrative Penalties ("Stipulation") with the CIWMB to resolve the issues in the
8 Administrative Complaint. Pursuant to the Stipulation, and good cause appearing
9 therefore, the following Stipulated Factual Findings and Conclusions of Law are made,
10 and the following Stipulated Order is issued:

11 **STIPULATED FACTUAL FINDINGS**

12 1. The Administrative Complaint was executed by WENDY BRECKON,
13 Senior Staff Counsel, CIWMB, acting in her official capacity.

14 2. RESPONDENTS are responsible for the transportation of waste or used
15 tires by a person not holding a valid waste tire hauler registration from the CIWMB.

16 PRIOR ENFORCEMENT ACTIONS

17 3. In February 2000, CIWMB also entered into a stipulation with
18 ARGONAUT ENTERPRISES, INC., NEVADA TIRE RECYCLING, et. al, which
19 permanently revoked the hauler registration for ARGONAUT ENTERPRISES, INC.
20 and issued a probationary registration for two years for NEVADA TIRE RECYCLING.
21 Furthermore, a term in the Stipulation provided that if certain conditions are not met,
22 the NEVADA TIRE RECYCLING registration will be summarily revoked for two years.
23 These conditions included proper manifesting of, and the use of registered vehicles for
24 loads of waste tires.

25 4. CIWMB issued an administrative decision on June 16, 2000 for
26 \$225,000 in waste tire storage penalties pursuant to Public Resources Code section
27 42850.1(b) for the following CIWMB cases against KIRK & SONS TIRES, and
28 associated businesses and/or individuals, OAH case number N1999040054;

1 ARGONAUT ENTERPRISES, INC., DBA KIRK SONS TIRE, OPERATOR, OAH case
2 number N1999120128; and ARGONAUT ENTERPRISES, INC. DBA KIRK SONS
3 TIRES, OPERATOR, OAH case number N1999120130.

4 WASTE TIRE HAULER REGISTRATION

5 5. RESPONDENTS applied for and obtained from CIWMB for the years
6 2002, 2003, 2004, 2005, 2006, and 2007, a Waste and Used Tire Hauler Registration
7 (hauler registration) in accordance with PRC sections 42955 and 42956, and
8 implementing regulations.

9 MANIFEST ERROR VIOLATIONS

10 6. Out of 101 manifests submitted by RESPONDENTS for the pick-ups or
11 deliveries of waste tires from on or about April 1, 2007 to September 1, 2007,
12 RESPONDENTS submitted 28 incorrect and/or incomplete manifests for an error rate
13 of 27.7%. The submittal of incorrect or incomplete manifests is a violation of PRC
14 section 42961.5. The parties agreed that RESPONDENTS committed the following
15 violations:

Manifest/CTL Number	Receipt	Date	Errors
3036429	B	8-27-08	Load Type Checked Twice, Missing Facility Address, Incorrect date
3036437	B	7-28-07	Invalid TPID #
3036442	A	7-17-07	Missing TPID#
3036413	C	6-28-07	Invalid/Illegible TPID #
3036805	B,C	7-28-07	Multiple: Missing Load Type, Pick Up or Delivery Not Checked, Missing Address
3036808	A,B,C	4-17-07; 4-18-07	Multiple: Missing Load Type, Missing Address, Missing Facility Phone Number, Illegible TPID#
3035810	A,B	4-11-07	Multiple: Missing TPID#, Missing Facility Phone Number, Missing Facility Address
3036427	B	4-5-07	Missing Facility TPID#
3036880	A,B,C	5-1-07; 5-3-07	Multiple Missing Load Types, Missing Load Amount, Missing Facility Addresses

1 7. CIWMB also alleged in the Administrative Complaint other violations
2 including manifesting violations, violations involving hauling to unauthorized facilities,
3 and unregistered hauling which RESPONDENTS dispute.

4 **STIPULATED LEGAL CONCLUSIONS**

5 8. RESPONDENTS violated PRC section 42961.5 when they transported
6 used or waste tires and failed to manifest, or misrepresented or omitted information in
7 the manifests.

8 9. CIWMB has the discretion to impose the negotiated penalty of \$15,000.00,
9 where \$10,000.00 is stayed for a period of three years, and will be imposed upon a
10 default of the terms and condition of the Stipulation.

11 **ORDER**

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

- 14
- 15 1. KIRK COFER; NEVADA TIRE RECYCLING INC. is ordered to pay an
16 administrative penalty of \$5,000.00 (five thousand dollars) to the CIWMB
17 according to the terms of the Stipulation.
 - 18 2. KIRK COFER; NEVADA TIRE RECYCLING INC. is ordered to contract with
19 a registered used and waste tire hauler to clean up any and all tires at 2593
20 South 5th Avenue, in Oroville, California pursuant to the terms of the
21 Stipulation.
 - 22 3. KIRK COFER; NEVADA TIRE RECYCLING INC. shall not apply for a used
23 and waste tire hauler registration for three years pursuant to the terms of the
24 Stipulation.

25 Effective 24 day of February 2009

26 
27 MARGO REID BROWN
28 Chair
CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD