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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:
12 ATV, INC.
13
14 A WASTE AND USED TIRE HAULER
15 TPID NO: 1001691-01
16 RESPONDENT.
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**AMENDED ADMINISTRATIVE
DECISION PURSUANT TO
STIPULATION FOR WASTE TIRE
HAULER ADMINISTRATIVE
PENALTIES**

AGENCY No: 2007-011002-ADC

19 **INTRODUCTION**

20 The California Integrated Waste Management Board (CIWMB) is now
21 Department of Resources Recycling and Recovery (CalRecycle). CalRecycle
22 succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section
23 40401(a)(1). CalRecycle has authority to regulate and conduct enforcement actions
24 regarding Waste Tire Haulers within the State of California under Public Resources
25 Code (PRC) section 42962 et seq. and attendant regulations contained in Title 14 of the
26 California Code of Regulations (CCR).
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1 CIWMB served an Administrative Complaint and Request for Hearing form on
2 ATV, INC. on June 19, 2008, hereinafter, "Respondent".

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4 RESPONDENT requested a hearing on June 16, 2008. To avoid the
5 uncertainties of litigation, RESPONDENT negotiated a Stipulation for Issuance of
6 Administrative Decision ("Stipulation") on August 28, 2008, with the CIWMB to resolve
7 the issues in the Administrative Complaint. On August 9, 2010, CalRecycle mailed
8 RESPONDENT a Notice of Default of Stipulation for Issuance of Administrative
9 Decision for Waste Tire Hauler Administrative Penalties notifying RESPONDENT he is
10 in default of the terms of the August 28, 2008, Stipulation adopted by the Board in an
11 August 28, 2008, Decision for submitting incorrect and/or incomplete manifest forms in
12 violation of PRC section 42961.5(C) to CalRecycle. RESPONDENT received the
13 Notice of Default on August 12, 2010. RESPONDENT was given ten (10) days from
14 the receipt of the Notice of Default to provide evidence to CalRecycle that there was no
15 default of the Stipulation and that failure to provide evidence would subject
16 RESPONDENT to the full administrative penalty for waste and used tire hauler penalties
17 in favor of CalRecycle in the sum of eighteen hundred dollars (\$1,800.00) minus any
18 payments received and this penalty would be due within 30 days from the date of
19 CalRecycle's final decision. As of today CalRecycle has not received a response from
20 the RESPONDENT.

21 **NEW FACTUAL FINDINGS**

22 CalRecycle has calculated your error rate to be 24.4%, above the stipulated 7%. This
23 error rate is based on 11 occasions, between April 1, 2010 and June 30, 2010, in which
24 you submitted incorrect and/or incomplete manifests forms in violation of PRC section
25 42961.5(c) as indicated in the following chart:

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CTL Receipt Number	Transaction Date	Receipt A, B & C	Error Type
3750896-A	4/6/2010	A	Facility TPID Number Incomplete
3750900-A	4/12/2010	A	Facility TPID Number Incomplete
3750905-B	4/19/2010	B	Load Amount Not Indicated
3750907-A	4/19/2010	A	Load Amount Not Indicated
3750913-A	5/2/2010	A	Facility TPID Number Inaccurate
3750917-B	5/11/2010	B	Facility TPID Number Incomplete
3750918-B	5/12/2010	B	Load Type Incomplete
3750921-B	5/18/2010	B	Facility TPID Number Inaccurate
3750922-B	5/19/2010	B	Load Type Incomplete
3750928-A	6/7/2010	A	Load Type Incomplete
3750929-B	6/9/2010	B	Facility TPID Number Incomplete

FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Senior Staff Counsel, CIWMB, acting in her official capacity.
2. RESPONDENT has been a registered tire hauler each year since 1998. RESPONDENT'S current registration expires on December 31, 2008.
3. On or about June 28, 2000, January 12, 2004, and June 14, 2004, CIWMB sent letters to RESPONDENT notifying them of errors and omissions on their Manifests and/or Comprehensive Trip Logs (hereinafter manifests).
4. In July 2007, as provided by PRC Section 42961.5 (e), CIWMB conducted an audit of Manifests submitted by RESPONDENT to determine compliance with PRC Section 42961.5. RESPONDENT manifest error rate from February 1, 2007 through May 31, 2007 was 16.10%. A July 26, 2007, letter was sent to RESPONDENT notifying them that their manifesting error rate was high, and offering training to resolve the problem.

1	3042647	Missing TPID Number/Using Wrong Hauler TPID	10-3-07
2	3042649	Invalid TPID Number/Using Wrong Hauler TPID	10-8-07
3	3042654	Invalid TPID Number/Using Wrong Hauler TPID	10-16-07
4	3042655	Invalid TPID Number/Using Wrong Hauler TPID	10-16-07
5	3042659	Neither Pick Up or Delivery are checked/Using Wrong Hauler TPID	10-19-07
6	3042664	Missing TPID Number/Using Wrong Hauler TPID	10-26-07
7	3042665	Invalid TPID Number/Using Wrong Hauler TPID	10-26-07
8		Missing Decal Number/Missing License Plate Number/Missing Hauler Address/Missing Hauler Name and Signature/Missing Load Type/Using Wrong Hauler TPID	10-26-07
9	3042667		

9. The negotiated penalty of five hundred dollars (\$ 500.00), where one thousand, three hundred dollars (\$1,300.00) of the penalty will be held in abeyance for two years subject to the terms of the Stipulation, is within CIWMB's discretion pursuant to 14 California Code of Regulations sections 18464.

ORDER

Good cause appearing, and in accordancw with the provision of Government Code section 11520, subdivision (a). THE FOLLOWING ORDER is hereby made:

ATV, INC. shall pay the full administrative penalty of eighteen hundred dollars (\$1,800.00) minus any payments received within 30 days of this Decision.

RESPONDENT'S RIGHT TO FILE WRITTEN MOTION

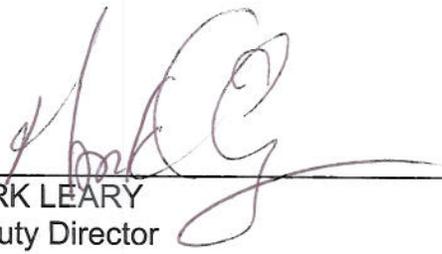
Pursuant to Government Code section 11520(c), RESPONDENT has a right to serve a motion:

Within seven days after service on the respondent of a decision based on the respondent's default, the respondent may serve a written motion requesting that the decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of 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

Amended Administrative Decision, ATV, INC.

1 served pursuant to Section 11505. (2) Mistake, inadvertence, surprise, or
2 excusable neglect.

3 Dated this 28th day of October, 2010.

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6 MARK LEARY
7 Deputy Director

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