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8 STATE OF CALIFORNIA  
9 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

10  
11 IN THE MATTER OF:  
12 DANIEL GOMEZ DBA COAST TIRE  
13 RECYCLING  
14 TPID NO: 1598468  
15 RESPONDENT

ADMINISTRATIVE COMPLAINT FOR  
WASTE TIRE STORAGE  
ADMINISTRATIVE PENALTIES  
PUBLIC RESOURCES CODE SECTION  
42850  
AGENCY NO. 2009-011107-ADC

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17  
18 **INTRODUCTION**

19 This Complaint for Penalty is issued by Department of Resources Recycling &  
20 Recovery ("CalRecycle") to DANIEL GOMEZ DBA COAST TIRE RECYCLING, owner  
21 and operator ("RESPONDENT"), of the waste tire sites located at 1) 1220 West Main  
22 Street, in Santa Maria, California 93454; 2) 1270 W. McCoy Lane, Santa Maria,  
23 California, 93455 , and 3) 1440 Jason Way, Units # 118 and 120, Orcutt, CA 93455.  
24 (Mailing address: 720 North Palisades Drive, Santa Maria, California 93454). The  
25 California Integrated Waste Management Board (CIWMB) is now Department of  
26 Resources Recycling and Recovery (CalRecycle). CalRecycle succeeded to CIWMB's  
27 authority on January 1, 2010, pursuant to PRC section 40401(a)(1). CalRecycle is  
28

1 seeking six thousand dollars (\$6,000.00) in administrative penalties. Section 42851 of  
2 the California Public Resources Code (PRC) authorizes CalRecycle to issue a  
3 complaint to any person that may be civilly liable pursuant to PRC section 42850, et  
4 seq. Further, liability may be imposed administratively pursuant to PRC section  
5 42850(b). This complaint is so issued based on the following facts.

#### 6 **STATEMENT OF FACTS**

7 1. CalRecycle has authority to inspect, permit, regulate and conduct  
8 enforcement actions against Waste Tire Facilities (WTF) within the State of California  
9 under PRC section 42800, et seq., and attendant regulations contained in Title 14 of the  
10 California Code of Regulations (CCR).

11 2. RESPONDENT has been a registered waste and used tire hauler since  
12 February 13, 2001.

13 3. On or after May of 2009, RESPONDENT unlawfully operated at least  
14 three Minor or Major Waste Tire Facilities at three separate locations in violation of PRC  
15 sections 42834 and 42824. RESPONDENT failed to apply for a waste tire facility permit  
16 prior to operating all three waste tire facilities in violation of 14 CCR section 18420.

#### 17 **ILLEGAL WASTE TIRE FACILITY AT 1220 WEST MAIN STREET**

18 4. On May 12, 2009, CIWMB Inspector Steve Dolan, conducted an  
19 inspection of 1220 West Main Street, in Santa Maria, California 93454. The inspector  
20 determined that more than 6,000 waste tires were stored illegally at this site creating a  
21 Major Waste Tire Facility in violation of PRC section 42824, and issued a Notice of  
22 Violation (Inspection Report I6-1059908). On June 16 2009, Inspector Dolan conducted  
23 a follow-up inspection and issued a Notice of Violation because he determined that 750  
24 waste tires were illegally stored at this site creating a Minor Waste Tire Facility in  
25 violation of PRC section 42834 (Inspection Report I1-1095517).

26 5. On August 13, 2009, CIWMB issued Cleanup and Abatement Order No.  
27 2009-010981-CAO (CAO) requiring the removal of the waste tires located at 1220 West  
28

1 Main Street, Santa Maria, CA 93454, within thirty (30) days of service of the CAO. On  
2 November 9, 2009, Inspector Dolan conducted a re-inspection and documented that  
3 this site was in compliance with waste tire storage laws.

4 **ILLEGAL WASTE TIRE FACILITY AT 1270 WEST MCCOY LANE**

5 6. On October 18, 2009, CIWMB Inspector Steve Dolan conducted an  
6 inspection at 1270 W. McCoy Lane, Santa Maria, California, 93455. The Inspector  
7 found more than 4,900 waste tires stored illegally at this site, and issued a Notice of  
8 Violation (Inspection Report No. I1-1059845). On November 9, 2009, Inspector Dolan  
9 conducted a follow-up inspection, and verified all waste tires had been removed from  
10 this site.

11 **ILLEGAL WASTE TIRE FACILITY AT 1440 JASON WAY**

12 7. On November 9, 2009, CIWMB Inspector Steve Dolan conducted an  
13 inspection at 1440 Jason Way, Units # 118 and 120, Orcutt, CA 93455. The Inspector  
14 determined that more than 2,850 waste tires were stored on the site creating an illegal  
15 Minor Waste Tire facility in violation of PRC section 42834. A Notice of Violation (NOV)  
16 was issued to RESPONDENT (Inspection Report I9-1068077).

17 **FAILURE TO MANIFEST**

18 8. RESPONDENT failed to manifest loads of waste tires to the three illegal  
19 waste tire facilities discussed in paragraphs 4 through 7 above in violation of PRC  
20 section 42961.5.

21 9. **Other Disciplinary Action:** On September 14, 2009, CIWMB issued a  
22 Decision and Order for \$400 in waste tire hauler penalties pursuant to a Stipulation with  
23 DANIEL GOMEZ, OWNER of COAST TIRE RECYCLING for manifesting violations.  
24 Specifically, on eight occasions between January 1, 2009 and January 31, 2009,  
25 COAST TIRE RECYCLING failed to submit completed manifest forms to the CIWMB  
26 within ninety (90) days in violation of PRC section 42961.5.

1 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

2 10. RESPONDENT violated PRC section 42834 and PRC section 42824. On  
3 and after July 1, 1994, it is unlawful to direct or transport waste tires to a minor waste  
4 tire facility or to accept waste tires at a minor waste tire facility unless the operator has  
5 obtained a minor waste tire facility permit. Daniel Gomez DBA COAST TIRE  
6 RECYCLING has been unlawfully operating Minor/Major Waste Tire Facilities at three  
7 separate locations as alleged in paragraphs 4 through 7 above.

8 11. RESPONDENT violated PRC section 42961.5 when they failed to submit  
9 completed California Uniform Waste and Used Tire Manifests (manifests) as required by  
10 the CIWMB for the illegal waste tire facilities alleged in Paragraphs 4 through 7 above.

11 **PENALTIES**

12 12. DANIEL GOMEZ DBA COAST TIRE RECYCLING, is liable for  
13 administrative penalties as set forth in PRC section 42850 and PRC section 42850.1  
14 (b)(2). Under this section, liability may be imposed in an administrative action.

15 13. Pursuant to PRC section 42846.5, the imposition of penalties herein may  
16 form the basis for a subsequent CalRecycle order permitting the CalRecycle or its  
17 contractors access to the property mentioned herein to perform cleanup, abatement or  
18 remedial work under PRC section 42846.

19 14. CalRecycle's authority to assess administrative penalties against  
20 RESPONDENT is set forth in PRC sections 42850(a) and 42850(b) which states:

21  
22 Any person who negligently violates any provision of this  
23 chapter, or any permit, rule, regulation, standard, or  
24 requirement issued or adopted pursuant to this chapter, is  
25 liable for a civil penalty of not less than five hundred dollars  
26 (\$500) or more than five thousand dollars (\$5,000), for each  
27 violation of a separate provision or, for continuing violation,  
28 for each date that the violation continues. Liability under this  
section may be imposed in a civil action or liability may be  
imposed administratively pursuant to this article.

15. In addition, CalRecycle has authority to assess administrative

1 penalties pursuant to PRC section 42850.1 which states:

2 (a) Any person who intentionally violates any provision of  
3 this chapter, or any permit, rule, regulation, standard, or  
4 requirement issued or adopted pursuant to this chapter,  
5 shall, upon conviction, be punished by a fine not to exceed  
6 ten thousand dollars (\$10,000) for each day of violation by  
7 imprisonment in the county jail for not more than one year, or  
8 by both that fine and imprisonment.

9 (b) (1) Any person who intentionally violates any provision of  
10 this chapter, or any permit, rule, regulation, standard, or  
11 requirement issued or adopted pursuant to this chapter, is  
12 liable for a civil penalty not to exceed ten thousand dollars  
13 (\$10,000), for each violation of a separate provision or, for  
14 continuing violations, for each day that the violation  
15 continues.

16 (2) Liability under this subdivision may be imposed in a  
17 civil action or may be imposed administratively pursuant to  
18 this article.

19 16. CalRecycle now requests that administrative penalty liability be  
20 imposed on RESPONDENT pursuant to 14 CCR section 18429 – Penalty  
21 schedule for Administrative Complaints.

22 17. In setting an appropriate administrative penalty, the provisions of PRC  
23 section 42852 require CalRecycle to take into consideration the nature, circumstances,  
24 extent and gravity of the violation, the violator's past and present efforts to prevent,  
25 abate, or clean up conditions posing a threat to the public health or safety or the  
26 environment, the violator's ability to pay the proposed administrative penalty, the  
27 prophylactic effect that imposition of the proposed penalty will have on both the violator  
28 and on the regulated community as a whole, and/or the complete disregard of  
applicable statute and regulation on RESPONDENT's behalf.

18. CalRecycle now requests that administrative penalty liability be imposed  
on RESPONDENT, in the sum of six thousand dollars (\$6,000.00).

1 **RIGHT TO HEARING**

2 19. You are hereby notified that pursuant to the provisions of section 42962(c)  
3 of the California Public Resources Code and Government Code section 11500, that you  
4 are entitled to a hearing to refute the allegations against you contained in this  
5 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE  
6 PENALTIES. **If you wish to have a hearing on this matter, you must complete and**  
7 **return the enclosed REQUEST FOR HEARING to our Legal Office within 30 days**  
8 **of receipt of this notice. Failure to complete and return the REQUEST FOR**  
9 **HEARING within 30 days will be deemed a waiver of your rights to a hearing.**

10 Pursuant to the above referenced Public Resources Code and Government Code  
11 sections, discovery requests by any party must be made within thirty days after the  
12 service of this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE  
13 ADMINISTRATIVE PENALTIES.

14  
15 Dated this <sup>12</sup>10<sup>th</sup> day of March, 2010.

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18 Elliot Block  
19 Chief Counsel  
20 Department of Resources  
21 Recycling & Recovery  
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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of:

DANIEL GOMEZ DBA COAST TIRE  
RECYCLING

TPID NO: 1598468

RESPONDENT

AGENCY No: 2009-011107-ADC

REQUEST FOR A HEARING

I, \_\_\_\_\_, in the above-entitled proceeding, acknowledge receipt of a copy of the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42850.

I hereby request a hearing to permit me to present my defense to the charges contained in said ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42850.

All correspondence concerning this proceeding should be sent to the following address:

(If you are represented by an attorney, all correspondence concerning this matter will be sent to the attorney.)

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please send to:

CalRecycle Legal Office  
Attention: Gloria Bell  
P.O. Box 4025, MS 23-A  
Sacramento, CA 95812-4125



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

### RIGHT TO A HEARING

Your are hereby notified that pursuant to the provisions of Section 42960 of the California Public Resources Code that you are entitled to a hearing to refute the allegations against you contained in the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES. **If you wish to have a hearing on this matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal Office within 30 days of receipt of this notice. Failure to complete and return the REQUEST FOR HEARING within 30 days will be deemed a waiver of your right to a hearing.**

### HEARING PROCEDURES

If you request one, a hearing will be conducted before an Administrative Law Judge of the Office of Administrative Hearings of the Department of General Services, at one of their office locations throughout the State, upon the charges made in the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES.

1. You may be present at the hearing.
2. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel.
3. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you.



4. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings.
5. Pursuant to 1 California Code of Regulations, section 1032, parties are entitled, upon request, to be provided with the assistance of an interpreter if they do not proficiently speak or understand the English language. If you require the assistance of an interpreter, timely notice of this fact should be given to our office so that appropriate arrangements can be made.
6. You are hereby further notified that pursuant to the provisions of 14 CCR section 17050 et seq. the violations alleged against you may cause you to be placed on the Department of Resources Recycling & Recovery's (CalRecycle) Unreliable Contractors, Subcontractors, Borrowers, and Grantees list. Placement on this list may prohibit you from obtaining contracts, loans, or grants from the CalRecycle for a period up to three years.
7. Continuances are not favored. If you need a continuance, write or call immediately to the Office of Administrative Hearings, 320 W. Fourth Street, Suite 630, Los Angeles, California 90013 (213) 576-7200. That agency has control of continuances. Requests without good cause will be denied.