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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECOVERY AND RECYCLING

10 IN THE MATTER OF:

11
12 PAOLA'S TIRE; PAOLA ZALDIVAR

13
14 TPID NO: 1561989-01

15 RESPONDENT.
16

AMENDED ADMINISTRATIVE
COMPLAINT FOR WASTE TIRE
HAULER ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE SECTION
42960

AGENCY NO. 2009-011105-ADC
OAH NO. 2009-120778

17 INTRODUCTION

18 This Complaint for Penalty is issued by the California Department of Resources
19 Recycling and Recovery (CALRECYCLE) former California Integrated Waste
20 Management Board (CIWMB) to PAOLA'S TIRE; PAOLA ZALDIVAR (RESPONDENT
21 PT), a waste tire hauler whose mailing address is 504 North Hagar Street, San
22 Fernando, California 91340, seeking seventy-two thousand six hundred dollars
23 (\$72,600.00). CalRecycle succeeded to CIWMB's authority on January 1, 2010,
24 pursuant to PRC section 40401(a)(1). Section 42962 of the Public Resources Code
25 (PRC) authorizes CALRECYCLE to administratively impose penalties for violations of
26 any provision of PRC section 42950 et seq. This complaint is so issued based on the
27 following facts:
28

1 **STATEMENT OF FACTS**

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

6 2. RESPONDENT PT applied for and obtained from CALRECYCLE a 2009
7 Waste and Used Tire Hauler Registration, pursuant to PRC sections 42955 and 42956,
8 and implementing regulations. The registration was applied for by Paola Zaldivar
9 ("PAOLA"), with an address of 504 North Hagar Avenue, San Fernando, California.

10 3. Jorge L. Holguin ("JORGE") was owner and operator of Jorge L. Holguin,
11 d.b.a. Letty's Tire ("LETTY'S"), whose Waste and Used Tire Hauler Registration was
12 revoked by the CALRECYCLE for multiple violations of California law.

13 4. RESPONDENT PT misrepresented material facts to CALRECYCLE in its
14 application which, had they been represented correctly, would have caused
15 CALRECYCLE to deny the application; transported tires to a facility not permitted by
16 CALRECYCLE; created a major and a minor waste tire facility; aided and abetted a
17 failure to comply with the Waste Tire Hauler Registration Law; and failed to comply with
18 the Waste Tire Hauler Registration Law.

19
20 **I. Misrepresentation of Material Facts**

21 5. On or about January 6, 2009, CALRECYCLE received a Waste Tire
22 Hauler Application and Surety Bond from RESPONDENT PT. In the application,
23 RESPONDENT PT applied for decals for five (5) vehicles, misrepresenting at least four
24 (4) of these vehicles as being registered with the California Department of Motor
25 Vehicles ("DMV") to RESPONDENT PT, in violation of PRC section 42962. In fact, at
26 least four (4) vehicles, license plate numbered 3H71033, TONLY10, 10427EX, and
27 2PHB359, were not registered with the DMV to RESPONDENT PT at the time.

1 6. On or about February 26, 2009, RESPONDENT PT submitted an
2 amended application dated February 22, 2009, requesting that the four (4) trucks
3 previously referenced, be removed from its original application because RESPONDENT
4 PT was unable to provide DMV registration of ownership as requested by
5 CALRECYCLE.

6
7 **II. Failure to Comply with the Waste Tire Hauler Registration Law**

8 7. On or about February 2, 2009, Vance Tracy, Integrated Waste
9 Management Specialist for CALRECYCLE's Enforcement Section, conducted an
10 inspection of BAS Recycling, Inc., located at 1400 North H Street, San Bernardino, CA.
11 During that inspection Mr. Tracy obtained copies of three (3) Comprehensive Trip Log
12 (CTL) receipts numbered 3912671A, 3912690A, and 3912689A, that RESPONDENT
13 PT failed to submit to the CALRECYCLE as required by PRC section 42961.5.

14 8. On or about March 12, 2009, Mr. Tracy, performed another inspection of
15 BAS Recycling. During this inspection, Mr. Tracy obtained copies of five (5) CTL
16 receipts numbered 3912754A, 3912756A, 3912879A, 3912878A, and 3912856A. Mr.
17 Tracy determined that RESPONDENT PT had failed to submit these to CALRECYCLE
18 as required by PRC section 42961.5.

19 9. On or about March 25, 2009, while inspecting the Mistubishi Cement
20 Plant, Mr. Tracy obtained copies of six (6) CTL receipts numbered 3912886A,
21 3912886A, 3912815A, 3912816C, 3912874A, and 3912645A, which had not been
22 submitted to the CALRECYCLE within the time required by PRC section 42961.5.

23 10. On or about March 25, 2009, Mr. Tracy also obtained Bills of Lading that
24 showed RESPONDENT PT used a vehicle with license plate number 9D39532 CA to
25 haul tires on three (3) separate occasions. Said vehicle was registered through the DMV
26 to JORGE, and was never registered for hauling with the CALRECYCLE, in violation of
27 14 CCR section 18831 form 60 and 14 CCR section 18456.2. RESPONDENT PT failed
28

1 to update its Waste Tire Hauler registration to include this vehicle in violation of 14 CCR
2 section 18456.3.

3 11. On or about May 8, 2009, Joe Espericueta, Kern County Environment
4 Health Services Department, inspected a site in Kern County and observed a truck with
5 license plate number 8J27823 CA, that did not have its tire hauler decal in the lower
6 right hand corner of its windshield and contained only a photocopy of the tire hauler
7 registration instead of the original, in violation of PRC section 42956.

8 12. On or about August 12, 2009, Stephen Dolan and Vance Tracy Integrated
9 Waste Management Specialists for CALRECYCLE counted over 800 tires at an
10 unpermitted facility located at 11051 Pendleton Street, Sun Valley, California. "Paola
11 Tires" was listed on the lease for the property, and the "use of the premises" was listed
12 as "storage of used tires . . . and Truck parking." RESPONDENT PT allowed the
13 transport of waste or used tired to the unpermitted minor waste tire facility in violation of
14 PRC section 42834 and 42951(b).

15 13. On or about December 4, 2009, Mr. Dolan counted over 1,000 tires at an
16 unpermitted facility located at 11051 Pendleton Street, Sun Valley, California. "Paola
17 Tires" was listed on the lease for the property, and the "use of the premises" was listed
18 as "storage of used tires . . . and Truck parking," but the facility remained unpermitted
19 by CALRECYCLE. RESPONDENT PT allowed the transport of waste or used tires to
20 the unpermitted minor waste tire facility in violation of PRC section 42834 and 42951(b).

21 14. On at least one occasion prior to August 12, 2009, RESPONDENT PT
22 failed to submit manifests to CALRECYCLE documenting the transport of waste or used
23 tires into or out of the 11051 Pendleton Street location, in violation of PRC section
24 42961.5.

25 15. On at least one occasion from August 12, 2009 through December 4,
26 2009, RESPONDENT PT failed to submit manifests to CALRECYCLE documenting the
27 transport of waste or used tires into or out of the 11051 Pendleton Street location, in
28 violation of PRC section 42961.5.

1 **II. Aiding and Abetting LETTY'S Failure to Comply with the Waste Tire Hauler**
2 **Registration Laws and the Administrative Decision for Denial of the Waste and**
3 **Used Tire Hauler Registration**

4 16. On or about March 12, 2009, CALRECYCLE executed an Administrative
5 Decision for Denial of the Waste and Used Tire Hauler Registration for LETTY'S (TPID
6 # 1004521), denying LETTY'S the use of the Waste and Used Tire Hauler Registration
7 for a period of nine (9) months from January 1, 2009 to September 30, 2009. The
8 corresponding Stipulated Agreement required that LETTY'S not allow any of its vehicles
9 to be used by another person or business to haul waste or used tires during the denial
10 period. RESPONDENT PT aided and abetted LETTY'S in its failure to comply with
11 California Waste Tire Hauler Laws and the Administrative Decision.

12 17. RESPONDENT PT requested that payment for tire hauling services be
13 sent to LETTY'S address. On or about January 28, 2009, Stephen Dolan, Integrated
14 Waste Management Specialist for CALRECYCLE Tire Enforcement Section, obtained
15 Invoice Number 439427 during a routine inspection at San Fernando Brake and Tire.
16 The return address at the top of the invoice listed 504 North Hagar Avenue, San
17 Fernando, California, however, the invoice requested payment be sent to 10463 Telfair
18 Avenue, Pacoima, California, 91331, the address listed by LETTY'S in its Waste and
19 Used Tire Hauler Application.

20 18. Also, during the inspection on or about March 23, 2009, at 504 North
21 Hagar, San Fernando, California, as documented in Waste Tire Survey and Inspection
22 Report Survey Form I3-1059665, Mr. Dolan obtained an invoice on RESPONDENT
23 PT's letterhead, but the check attached had been made payable to LETTY'S. Mr. Dolan
24 also obtained another of RESPONDENT PT's invoices; the text of which directed
25 payment to the home address of JORGE. Moreover, at the same time, Mr. Dolan
26 observed multiple invoices on RESPONDENT PT's letterhead that directed payment to
27 Post Office Box 330958 in Pacoima. Postmaster General documents indicate that same
28 Post Office Box was obtained by Leticia Holguin, wife of JORGE, with a physical

1 address of 10463 Telfair Avenue, Pacoima California, the same address provided in
2 LETTY'S Waste and Used Tire Hauler Application. When asked follow-up questions,
3 PAOLA was unable to answer questions regarding the lock mechanism on the same
4 Post Office box, or where it was located.

5 19. RESPONDENT PT and LETTY'S also used the same phone number
6 when dealing with clients. On or about February 2, 2009, Mr. Tracy inspected American
7 Tire Depot. During that inspection, Mr. Tracy obtained CTL receipt numbered 3912749
8 which had been completed by RESPONDENT PT. Mr. Tracy compared the telephone
9 number on CTL receipt numbered 3912749, to a separate CTL receipt numbered
10 3579982, which had been completed by LETTY'S. Both CTL receipts showed the same
11 phone number in the box reserved for "Hauler Telephone Number," the same phone
12 number listed in LETTY's Waste and Used Tire Hauler Application, 818-890-3186,

13 20. On or about February 2, 2009, Mr. Tracy inspected BAS Recycling, Inc.,
14 located at 1400 North H Street, San Bernardino, CA. During that inspection Mr. Tracy
15 obtained invoices, receipts and CTL receipt's demonstrating RESPONDENT PT and
16 LETTY'S to be the same hauler for a single transaction. Three such invoices, Receiving
17 Report Numbers 28306, 28314, and 28324 listed LETTY's in the reference section, but
18 corresponding CTL receipts numbered 3912690, 3912671, and 3912747 listed
19 RESPONDENT PT's phone number, 818-219-5366. Another such invoice, Receiving
20 Report Number 28307 listed LETTY'S in the reference section, but the CTL receipt
21 listed RESPONDENT PT as the hauler, and listed LETTY'S telephone number 818-890-
22 3186.

23 21. PAOLA stated that she knew very little about her business. On or about
24 March 23, 2009, Mr. Dolan inspected RESPONDENT PT's facility to further investigate
25 the above-described allegations. During that inspection, as documented in Waste Tire
26 Survey and Inspection Report Form I3-1059665. Mr. Dolan spoke with PAOLA. Mr.
27 Dolan also spoke with James Jacob, who is supervisor of JORGE at the Los Angeles
28 County Juvenile Detention Center. PAOLA was unable to provide neither her business

1 e-mail address, nor her log-in information. PAOLA was also unable to answer Mr.
2 Dolan's questions regarding her Surety Bond with CALRECYCLE, specifically, the cost
3 of the Surety Bond and how it was paid for. PAOLA was unable to describe the five (5)
4 trucks that she requested be removed from her registration, and was also unable to
5 locate the decals that had been issued by CALRECYCLE for those trucks. PAOLA
6 stated that the trucks were parked outside her house, or the house owned by her driver,
7 Julio, when not in use. PAOLA further stated that she would contact the driver to pick up
8 tires only after she was contacted by customers, however, she later stated that she did
9 not know how to get a hold of the driver and did not have his phone number.

10 22. RESPONDENT PT and LETTY'S information appeared on documents
11 regarding the same hauled loads. On or about March 25, 2009, Mr. Tracy inspected
12 Mistubishi Cement Plant in Lucerne Valley, California. During the inspection Mr. Tracy
13 observed CTL receipts and corresponding Bills of Lading that referenced both LETTY'S
14 and RESPONDENT PT on the same document. Mr. Tracy also observed that the
15 vehicle license plate numbers and names of drivers listed on four (4) CTL receipts did
16 not correspond to those listed on the Bills of Lading. In all four (4) instances, the Bills of
17 Lading, numbers 68542, 68533, 68506, and 68507, showed that RESPONDENT PT
18 used a truck with license plate 9D59092 CA; a truck registered to Leticia Zaldivar by the
19 DMV and to LETTY'S by CALRECYCLE, however the four (4) corresponding CTL
20 receipts turned into CALRECYCLE, numbered 3912871-A, 3912718-B, 3912884-A, and
21 3912763-B listed a truck 8J27289 CA, in violation of PRC sections 42961.5 and 42962.
22 The truck with license plate number 9D95092, was also listed on eleven (11) Bills of
23 Lading, including the four above, numbered 68542, 68533, 68516, 68506, 68507,
24 69309, 69312, 68992, 68989, 68983, and 68975, whose corresponding CTL Receipts,
25 numbered 3912871-A, 3912718-B, 3912886-A, 3912884-A, 3912763-B, 3912892-A,
26 3912891-A, 3299752-A, 3912830-C, 3912831-C, and 391233-D, listed RESPONDENT
27 PT as the hauler, in violation of PRC section 42961.5. Additionally, three (3) Bills of
28 Lading, numbered 69203, 69200, and 69195 listed as hauler a vehicle with license plate

1 number 9D39532, a vehicle registered with the DMV to JORGE, but never registered
2 with CALRECYCLE; the corresponding CTL receipts, numbered, 3912646-B, 3912847-
3 C, and 3912848-C showed these loads as hauled by RESPONDENT PT, in violation of
4 PRC section 42961.5. RESPONDENT PT failed to update its Waste Tire Hauler
5 registration to include these vehicles in violation of 14 CCR section 18456.3.

6 23. On or about March 25, 2009, Julio Muro, a driver for RESPONDENT PT,
7 hauled used or waste tires in a vehicle that was not registered with CALRECYCLE for
8 the purpose of hauling waste or used tires, and was registered with DMV to JORGE
9 with California License Plate Number 9D39532. The vehicle displayed not decal and Mr.
10 Muro was unable to provide law enforcement with a valid waste and used tire hauler
11 registration in violation of PRC section 42956 and 42961.5.

12 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

13 24. CALRECYCLE is requesting seventy-two thousand six hundred dollars
14 (\$72,600.00) in waste tire hauler administrative penalties based on the above-
15 mentioned facts and for the following violations:

- 16 a. On at least nineteen (19) occasions, RESPONDENT PT intentionally
17 or negligently violated a permit, rule, regulation, standard or
18 requirement issued or adopted by CALRECYCLE by misrepresenting
19 significant facts in its Waste Tire Hauler application or CTLs, pursuant
20 to PRC section 42962.
- 21 b. On at least sixteen (16) separate occasions, RESPONDENT PT
22 violated PRC section 42961.5 by failing to submit CTLs (manifests) to
23 CALRECYCLE either at all or within the prescribed time period.
- 24 c. On at least two (2) separate occasions RESPONDENT PT failed to
25 update its Waste Tire Hauler application resulting in the transport of
26 tires in unregistered vehicles, in violation of 14 CCR section 18456.3.
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- 1 d. On multiple occasions RESPONDENT PT violated 14 CCR section
2 18831, form 60, by failing to haul used and waste tires in a
3 CALRECYCLE registered vehicle, and 14 CCR section 18456.2 by
4 allowing tires to be hauled in vehicles without proper decals obtained
5 from CALRECYCLE.
- 6 c. On at least two (2) occasions RESPONDENT PT violated PRC
7 sections 42951(b) and 42834 by transporting waste tires to a minor
8 waste tire facility or by accepting waste tires at a minor waste tire
9 facility when the operator had failed to obtain a minor waste tire facility
10 permit.
- 11 d. On multiple occasions RESPONDENT PT continued to operate its
12 business in a manner indicating that it acted unlawfully by aiding and
13 abetting LETTY'S in its failure to comply with the afore-mentioned
14 Administrative Decision and California Tire Hauler Registration Laws,
15 in violation of PRC section 42962.
- 16 e. On at least one (1) occasion RESPONDENT PT violated PRC section
17 42956, by failing to carry the waste or used tire hauler registration in
18 the registered vehicle; and failing to permanently affix the
19 CALRECYCLE Tire Hauler decal to the lower right hand corner of the
20 windshield.
- 21 f. On at least one (1) occasion RESPONDENT PT violated PRC section
22 42956 by failing to provide a valid Waste Tire Hauler Registration upon
23 demand to an authorized representative of CALRECYCLE.

PENALTIES

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26 25. CALRECYCLE's authority to assess administrative penalties against
27 RESPONDENTS as a waste tire hauler is set forth in PRC section 42962(c), which
28 states:

1 In addition to the civil penalty which may be imposed pursuant to
2 subdivision (a), the board may impose civil penalties administratively
3 in an amount not to exceed five thousand dollars (\$5,000) for each
4 violation of a separate provision or for continuing violations for each
5 day that violation continues, on any person who intentionally or
6 negligently violates any permit, rule, regulation, standard, or
7 requirement issued adopted pursuant to this chapter. . .

8 Under this section, RESPONDENTS are subject to a separate administrative
9 penalty of up to \$5,000.00, for each occasion upon which they have hauled waste tires
10 without a valid Waste Tire Hauler Registration. Furthermore, 14 CCR section 18464
11 allows the imposition of penalties in accordance with that penalty table.

12 26. In setting an appropriate administrative penalty, CALRECYCLE has taken
13 into consideration the nature, extent and gravity of the violations, and the complete
14 disregard of applicable statute and regulation by RESPONDENTS. CALRECYCLE now
15 requests that administrative penalty liability be assessed against RESPONDENT in the
16 sum of seventy-two thousand six hundred dollars (\$72,600.00)

17 HEARING RIGHTS

18 You were notified that pursuant to the provisions of section 42960 of the
19 California Public Resources Code and Government Code section 11506, that you are
20 entitled to a hearing to refute the allegations against you contained in this AMENDED
21 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE
22 PENALTIES. You requested a hearing in a timely fashion. A hearing is scheduled for
23 June 28, 29 and 30, 2010, at the Office of Administrative Hearings, 320 West Fourth
24 Street, Suite 630, Los Angeles, California 90013.

25 Dated this 15th day of June, 2010.

26 
27 Heather L Hunt
28 Staff Counsel III
Department of Resources
Recycling and Recovery