

1 ELLIOT BLOCK SBN 116999
Chief Counsel
2 Attorney for Complainant
3 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 23rd Floor
4 P. O. Box 4025
5 Sacramento, CA 95812-4025
6 Telephone: (916) 341-6080
Facsimile: (916) 341-6082

7
8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

10 In the matter of:

11 ROBERT CANO DBA AMERICAN TIRE
12 SHOP
13 Unregistered Hauler
14 TPID NO: 1592275-01

15 RESPONDENT.
16

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2010-011109-ADC

17 **INTRODUCTION**

18 This Complaint for Penalty seeking two thousand dollars (\$2,000.00) is issued by the
19 California Department of Resources Recycling & Recovery (CalRecycle) to ROBERT CANO
20 (RESPONDENT), an unregistered waste tire hauler located at 474 N Effie Street, Fresno,
21 California 93701. Section 42962 of the Public Resources Code (PRC) authorizes
22 CalRecycle to administratively impose penalties for violations of any provision of PRC section
23 42950 et seq. CalRecycle succeeded to the California Integrated Waste Management
24 Board's (CIWMB) authority on January 1, 2010. This complaint is so issued based on the
25 following facts:

26 **STATEMENT OF FACTS**

27 1. CalRecycle has authority to regulate and conduct enforcement actions
28 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).

1 2. RESPONDENT is responsible for the transportation of waste or used tires by a
2 person not holding a valid waste tire hauler registration from CalRecycle.

3 **CURRENT VIOLATION**

4 3. RESPONDENT violated Public Resources Code (PRC) §42951(a) by
5 unlawfully hauling waste or used tires (passenger tire equivalents) without the required
6 CalRecycle waste tire hauler registration on August 11, 2009.

7 **PREVIOUS VIOLATIONS**

8 4. A Letter of Violation (LOV) dated January 7, 2008, was sent to the Respondent,
9 regarding Respondent's unregistered hauling of waste or used tires using vehicle license
10 number 6R78092.

11 5. A Letter of Violation (LOV) dated April 21, 2008, was sent to the Respondent,
12 regarding Respondent's unregistered hauling of waste or used tires using vehicle license
13 number 6R78092.

14 6. A Letter of Violation (LOV) dated November 20, 2008, was sent to the
15 Respondent, regarding Respondent's unregistered hauling of waste or used tires using
16 vehicle license number 6R78092.

17 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

18 7. RESPONDENT is in violation of PRC section 42951(a), which makes it
19 unlawful, on or after January 1, 1995, to engage in the transportation of more than nine
20 waste tires unless holding a valid Waste Tire Hauler Registration, unless exempted as
21 specified in PRC section 42954.

22 **PENALTIES**

23 8. CalRecycle's authority to assess administrative penalties against
24 RESPONDENT as a waste tire hauler is set forth in PRC section 42962(c), which states:

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

1 Under this section, RESPONDENT is subject to a separate administrative penalty of
2 up to \$5,000.00, for each occasion upon which they have hauled waste tires without a valid
3 Waste Tire Hauler Registration. 14 CCR section 18464 allows the imposition of penalties
4 ranging from \$100.00 to \$5,000.00 per load as an unregistered waste and used tire hauler.

5 9. In setting an appropriate administrative penalty, CalRecycle has taken into
6 consideration the following:

- 7 a. Nature, extent and gravity of the violations.
- 8 b. Evidence that the violation was willful or negligent.
- 9 c. The good or bad faith exhibited by the party.
- 10 d. History of violation of the same or similar nature.
- 11 e. The extent to which the party has cooperated with the Department in
12 remediating or injury caused by his or her violation.
- 13 f. The complete disregard of applicable statute and regulation by RESPONDENT.

14 CalRecycle now requests that administrative penalty liability be assessed against
15 RESPONDENT in the sum of two thousand dollars (\$2,000.00).

16 **RIGHT TO HEARING**

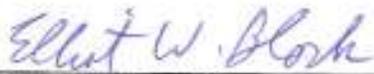
17 You are hereby notified that pursuant to the provisions of section 42962(c) of the
18 California Public Resources Code and Government Code section 11500 that you are entitled
19 to a hearing to refute the allegations against you contained in this Administrative Complaint
20 for Waste Tire Hauler Administrative penalties. **If you wish to have a hearing on this**
21 **matter, you must complete and return the enclosed REQUEST FOR HEARING to our**
22 **Legal Office within 15 days of receipt of this notice. Failure to complete and return the**
23 **REQUEST FOR HEARING within 15 days will be deemed a waiver of your rights to a**
24 **hearing.**

25 Pursuant to the above referenced Public Resources Code and Government Code

26 ///
27 ///
28 ///

1 sections, discovery requests by any party must be made within thirty days after the service of
2 this Administrative Complaint.

3 Dated this ^{29th} day of March, 2010.
4

5 
6 ELLIOT BLOCK
7 Chief Counsel

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 STATE OF CALIFORNIA

2 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

3 In the matter of:

4 ROBERT CANO DBA AMERICAN TIRE
5 SHOP

6 Unregistered Hauler
7 TPID NO: 1592275-01

8 RESPONDENT.

AGENCY NO: 2010-011109-ADC

REQUEST FOR A HEARING

9
10 I, _____, in the above-entitled proceeding, acknowledge receipt of a
11 copy of the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE
12 PENALTIES.

13 I hereby request a hearing to permit me to present my defense to the charges
14 contained in said ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
15 ADMINISTRATIVE PENALTIES.

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

18 (If you are represented by an attorney, all correspondence concerning this matter will be sent
19 to the attorney.)
20

21 _____
22 Address: Telephone:
23 City: State: Zip Code:
24 _____

25 Signature: _____

26 Date: _____

27 Please send to:

28 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

You 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 HAULER 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 15 days of receipt of this notice. Failure to complete and return the REQUEST FOR HEARING within 15 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 HAULER 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 CalRecycle's 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, 2349 Gateway Oaks Drive, Suite 200, Sacramento, California 95833-4231 (916) 263-0550. That agency has control of continuances. Requests without good cause will be denied.