ELLIOT BLOCK SBN 116999
Chief Counsel
HEATHER L. HUNT SBN 225861
Staff Counsel III
Attorneys for Complainant
DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
P. O. Box 4025
Sacramento, CA 95812-4025
Telephone: (916) 341- 6068
Facsimile: (916) 319-7677

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of: PEDRO L. MURILLO, OWNER DBA KORITAS TIRE SHOP Unregistered Hauler TPID NO: 1007631 RESPONDENT.	ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42950, ET SEQ. AGENCY No: 2010-011116-ADC

INTRODUCTION

The California Department of Resources Recycling and Recovery (CALRECYCLE) served an Administrative Complaint for Waste Tire Hauler Administrative Penalties and Request for Hearing on PEDRO L. MURILLO, OWNER DBA KORITAS TIRE SHOP an unregistered waste and used tire hauler (RESPONDENT), on March 19, 2011. RESPONDENT did not file a Request for Hearing. The matter shall be determined as a default pursuant to Title 14 of the California Code of Regulations (CCR) section 18466 and Government Code section 11520. The California Integrated Waste Management Board (CIWMB) is now CALRECYCLE. CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (PRC) section 40401(a)(1). CALRECYCLE takes

action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

FACTUAL FINDINGS

1. The Administrative Complaint was executed by HEATHER L. HUNT, Staff Counsel III, CALRECYCLE, acting in her official capacity.

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

3. RESPONDENT was a registered waste and used tire hauler for at least a portion of each of the years 2002, 2003, 2004, 2005, 2006, 2007, and 2009. However, RESPONDENT routinely submitted his Waste and Used Tire Hauler Registration Applications (Application) after the required deadline.

4. On October 15, 2009, Keith Cambridge, Program Manager for CALRECYCLE's Waste Tire Hauler and Manifest Program, mailed to RESPONDENT correspondence notifying RESPONDENT that his current registration would expire at the end of the 2009 calendar year. The correspondence further notified RESPONDENT that a renewal application would be due by November 16, 2009. Both an English and a Spanish version of the letter were mailed to RESPONDENT.

5. On October 15, 2009, Mr. Cambridge, mailed to RESPONDENT correspondence notifying RESPONDENT that CALRECYCLE had a "zero-tolerance" policy towards haulers who unlawfully hauled used or waste tires after January 1, 2010, without first obtaining a registration for the 2010 calendar year. Both an English and a Spanish version of the letter were mailed to RESPONDENT.

6. On November 16, 2009, CALRECYCLE did not receive an application from RESPONDENT, for the 2010 calendar year.

7. On January 1, 2010, CALRECYCLE had not received an application from RESPONDENT for the 2010 calendar year.

8. On January 13, 2010, Mr. Cambridge sent correspondence to RESPONDENT notifying him that his Registration had been cancelled, because RESPONDENT had failed to

renew said Registration. Both an English and a Spanish version of the letter were mailed to RESPONDENT.

9. On January 19, 2010, Mike Murillo, a representative for RESPONDENT, spoke with Johan Pablo, Student Assistant for CALRECYCLE's Tire Hauler Compliance Unit. Mr. Pablo advised Mr. Murillo that RESPONDENT could not haul any loads of waste tires until RESPONDENT received registration decals for the 2010 calendar year.

10. During an inspection of RESPONDENT's tire shop in Colton, California, on August 11, 2010, and documented in Inspection Report number I1-1134592, Vance Tracy, Integrated Waste Management Specialist for CALRECYCLE's Tire Enforcement Section, observed a truck with license plate number 4X86070 with expired 2009 registration decals in the windows. Also during the inspection, an employee of RESPONDENT, who worked at RESPONDENT's San Bernardino office, showed Mr. Tracy a recent comprehensive trip log (CTL) receipt showing two deliveries of waste tires to CB Tyres Recycling Resources (CB Tyres) by RESPONDENT in 2010. Mr. Tracy also spoke with RESPONDENT Pedro Murillo by phone and provided Mr. Murillo with information regarding how to properly obtain a valid registration for the 2010 calendar year. Mr. Tracy also provided Cesar Allerano, manager of RESPONDENT's Colton, California, location, with copies of Waste and Used Tire Hauler laws, a short field guide to CTL receipts, and sample CTL receipts to demonstrate to Mr. Allerano the proper way to complete CTL receipts and submit them to CALRECYCLE.

11. On August 18, 2010, Mr. Tracy obtained CTL receipts from CB Tyres showing 56 deliveries by RESPONDENT between January 4, 2010 and August 5, 2010, the time period for which RESPONDENT was not in possession of a valid registration, in violation of PRC section 42951. The table below shows the CTL Form Number, Transaction Date and Passenger Tire Equivalents of these violations:

Comprehensive Trip Log	Date	Pickup	Delivery	Passenger Tire Equivalent	Location
3407251-C	January 4, 2010		X	213	CB Tyres, Grand Terrace, CA
3407252-A	January 4, 2010		X	214	CB Tyres, Grand Terrace, CA

3407252-B	January 13, 2010		X	221	CB Tyres, Grand Terrace, CA
3407253-A	January 15, 2010		X	226	CB Tyres, Grand Terrace, CA
3407253-B	January 25, 2010		X	200	CB Tyres, Grand Terrace, CA
3407252-C	February ?, 2010		X	221	CB Tyres, Grand Terrace, CA
3407253-C	February ?, 2010		X	212	CB Tyres, Grand Terrace, CA
3407254-A	February 10, 2010		X	199	CB Tyres, Grand Terrace, CA
3407254-B	February 12, 2010		X	234	CB Tyres, Grand Terrace, CA
3407254-C	February 15, 2010		X	216	CB Tyres, Grand Terrace, CA
3407255-A	February 19, 2010		X	213	CB Tyres, Grand Terrace, CA
3407255-B	February 22, 2010		X	206	CB Tyres, Grand Terrace, CA
3407256-A	March 1, 2010		X	215	CB Tyres, Grand Terrace, CA
3407255-C	March 1, 2010		X	215	CB Tyres, Grand Terrace, CA
3407256-B	March 5, 2010		X	203	CB Tyres, Grand Terrace, CA
3407256-C	March 5, 2010		X	184	CB Tyres, Grand Terrace, CA
3407257-A	March 12, 2010		X	214	CB Tyres, Grand Terrace, CA
3407257-B	March 19, 2010		X	212	CB Tyres, Grand Terrace, CA
3407257-C	March 29, 2010		X	287	CB Tyres, Grand Terrace, CA
3407258-A	March 29, 2010		X	215	CB Tyres, Grand Terrace, CA
3407258-B	April 7, 2010		X	208	CB Tyres, Grand Terrace, CA
3407258-C	April 9, 2010		X	234	CB Tyres, Grand Terrace, CA
3407259-A	April 12, 2010		X	214	CB Tyres, Grand Terrace, CA
3407259-B	April 21, 2010		X	215	CB Tyres, Grand Terrace, CA
3407259-C	April 26, 2010		X	237	CB Tyres, Grand Terrace, CA
3407260-C	? 13, 2010		X	226	CB Tyres, Grand Terrace, CA
3407260-A	April, 28, 2010		X	245	CB Tyres, Grand Terrace, CA
3407260-B	May 4, 2010		X	218	CB Tyres, Grand Terrace, CA
3407261-A	May ?, 2010		X	229	CB Tyres, Grand Terrace, CA

3407261-B	May 18, 2010		X	221	CB Tyres, Grand Terrace, CA
3407261-C	May 20, 2010		X	231	CB Tyres, Grand Terrace, CA
3407262-A	May 24, 2010		X	201	CB Tyres, Grand Terrace, CA
3407262-B	May 24, 2010		X	207	CB Tyres, Grand Terrace, CA
3407262-C	June 1, 2010		X	228	CB Tyres, Grand Terrace, CA
3407263-A	June 1, 2010		X	198	CB Tyres, Grand Terrace, CA
3407263-B	June 7, 2010		X	238	CB Tyres, Grand Terrace, CA
3407263-C	June 7, 2010		X	205	CB Tyres, Grand Terrace, CA
3407264-A	June 14, 2010		X	215	CB Tyres, Grand Terrace, CA
3407264-B	June 17, 2010		X	220	CB Tyres, Grand Terrace, CA
3407266-A	June 22, 2010		X	222	CB Tyres, Grand Terrace, CA
3407266-B	June 23, 2010		X	214	CB Tyres, Grand Terrace, CA
3407268-A	July 8, 2010		X	209	CB Tyres, Grand Terrace, CA
3407268-B	July 8, 2010		X	204	CB Tyres, Grand Terrace, CA
3407268-C	July 8, 2010		X	212	CB Tyres, Grand Terrace, CA
3407266-C	July 9, 2010		X	214	CB Tyres, Grand Terrace, CA
3407269-A	July 12, 2010		X	228	CB Tyres, Grand Terrace, CA
3407269-B	July 15, 2010		X	221	CB Tyres, Grand Terrace, CA
3407269-C	July 15, 2010		X	219	CB Tyres, Grand Terrace, CA
3407270-A	July 19, 2010		X	210	CB Tyres, Grand Terrace, CA
3407270-B	July 21, 2010		X	210	CB Tyres, Grand Terrace, CA
3407270-C	July 26, 2010		X	228	CB Tyres, Grand Terrace, CA
3407271-A	July 27, 2010		X	209	CB Tyres, Grand Terrace, CA
3407271-B	July 28, 2010		X	252	CB Tyres, Grand Terrace, CA
3407271-C	August 4, 2010		X	229	CB Tyres, Grand Terrace, CA
3407272-A	August 4, 2010		X	72	CB Tyres, Grand Terrace, CA
3407272-B	August 5, 2010		X	217	CB Tyres, Grand Terrace, CA

LEGAL CONCLUSIONS

12. On at least 56 occasions between January 4, 2010 and August 5, 2010, RESPONDENT violated PRC section 42951(a), by engaging in the transportation of more than nine waste tires without first holding a valid registration for the 2010 calendar year, and not being exempted as specified in PRC section 42954.

13. CALRECYCLE'S authority to assess administrative penalties against RESPONDENT as a waste tire hauler is set forth in PRC section 42962 and in 14 CCR section 18464.

14. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty tables, the requested penalty of one hundred and eleven thousand dollars ($111,000.00) is within the CALRECYCLE'S discretion.

15. No evidence of mitigation, extenuation or rehabilitation is offered.

ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Government Code Section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, PEDRO L. MURILLO, OWNER DBA KORITAS TIRE SHOP, is ordered to pay an administrative penalty of one hundred and eleven thousand dollars ($111,000.00) to CalRecycle within 30 (thirty) days of the date 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 served pursuant to Section 11505.
(2) Mistake, inadvertence, surprise, or excusable neglect.

This DECISION shall become effective May 17, 2011.

Dated this 17 day of May 2011.

Lorraine Van Kekerix

Lorraine Van Kekerix
ACTING DEPUTY DIRECTOR
COMPLIANCE AND
ENFORCEMENT DIVISION
CALRECYCLE