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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10
11 In the matter of:

12 PEDRO L. MURILLO, OWNER DBA

13 KORITAS TIRE SHOP

14 Unregistered Hauler

15 TPID NO: 1007631

16 RESPONDENT.
17

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

AGENCY No: 2010-011116-ADC

18 **INTRODUCTION**

19
20 This Administrative Complaint for Waste Tire Hauler Administrative Penalties is issued
21 by the Department of Resources Recycling and Recovery (CALRECYCLE) to PEDRO L.
22 MURILLO, OWNER DBA KORITAS TIRE SHOP (RESPONDENT) seeking one hundred
23 eleven thousand dollars (\$111,000.00). The California Integrated Waste Management Board
24 (CIWMB) is now the California Department of Resources Recycling and Recovery
25 (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010,
26 pursuant to PRC section 40401(a)(1). Section 42850(b) of the Public Resources Code (PRC)
27 authorizes CALRECYCLE to issue a complaint to any person that may be administratively
28 liable. This complaint is so issued based on the following facts:

1 **STATEMENT OF FACTS**

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

7 2. Pursuant to PRC section 42951, it is unlawful, on or after January 1, 1995, to
8 engage in the transportation of waste or used tires without first obtaining a valid Used and
9 Waste Tire Hauler Registration (registration), unless exempted as specified in PRC section
10 42954.

11 3. Pursuant to 14 CCR section 18455, each Waste and Used Tire Hauler
12 Registration expires annually on January 1 of the following calendar year, and CALRECYCLE
13 must receive a new application from any hauler who wishes to continue to operate as a hauler
14 no later than 45 days prior to the January 1 expiration date.

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

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

25 6. Also on October 15, 2009, Mr. Cambridge, mailed to RESPONDENT
26 correspondence notifying RESPONDENT that CALRECYCLE had a "zero-tolerance" policy
27 towards haulers who unlawfully hauled used or waste tires after January 1, 2010, without first
28

1 obtaining a registration for the 2010 calendar year. Both an English and a Spanish version of
2 the letter were mailed to RESPONDENT.

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

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

7 9. On January 13, 2010, Mr. Cambridge sent correspondence to RESPONDENT
8 notifying him that his Registration had been cancelled, because RESPONDENT had failed to
9 renew said Registration. Both an English and a Spanish version of the letter were mailed to
10 RESPONDENT.

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

15 11. During an inspection of RESPONDENT's tire shop in Colton, California, on
16 August 11, 2010, and documented in Inspection Report number I1-1134592, Vance Tracy,
17 Integrated Waste Management Specialist for CALRECYCLE's Tire Enforcement Section,
18 observed a truck with license plate number 4X86070 with expired 2009 registration decals in
19 the windows. Also during the inspection, an employee of RESPONDENT, who worked at
20 RESPONDENT's San Bernardino office, showed Mr. Tracy a recent comprehensive trip log
21 (CTL) receipt showing two deliveries of waste tires to CB Tyres Recycling Resources (CB
22 Tyres) by RESPONDENT in 2010. Mr. Tracy also spoke with RESPONDENT Pedro Murillo by
23 phone and provided Mr. Murillo with information regarding how to properly obtain a valid
24 registration for the 2010 calendar year. Mr. Tracy also provided Cesar Allerano, manager of
25 RESPONDENT's Colton, California, location, with copies of Waste and Used Tire Hauler laws,
26 a short field guide to CTL receipts, and sample CTL receipts to demonstrate to Mr. Allerano
27 the proper way to complete CTL receipts and submit them to CALRECYCLE.
28

12. 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 |

| | | | | | | |
|----|-----------|-----------------|--|---|-----|-----------------------------|
| 1 | 3407258-A | March 29, 2010 | | X | 215 | CB Tyres, Grand Terrace, CA |
| 2 | 3407258-B | April 7, 2010 | | X | 208 | CB Tyres, Grand Terrace, CA |
| 3 | 3407258-C | April 9, 2010 | | X | 234 | CB Tyres, Grand Terrace, CA |
| 4 | 3407259-A | April 12, 2010 | | X | 214 | CB Tyres, Grand Terrace, CA |
| 5 | 3407259-B | April 21, 2010 | | X | 215 | CB Tyres, Grand Terrace, CA |
| 6 | 3407259-C | April 26, 2010 | | X | 237 | CB Tyres, Grand Terrace, CA |
| 7 | 3407260-C | ? 13, 2010 | | X | 226 | CB Tyres, Grand Terrace, CA |
| 8 | 3407260-A | April, 28, 2010 | | X | 245 | CB Tyres, Grand Terrace, CA |
| 9 | 3407260-B | May 4, 2010 | | X | 218 | CB Tyres, Grand Terrace, CA |
| 10 | 3407261-A | May ?, 2010 | | X | 229 | CB Tyres, Grand Terrace, CA |
| 11 | 3407261-B | May 18, 2010 | | X | 221 | CB Tyres, Grand Terrace, CA |
| 12 | 3407261-C | May 20, 2010 | | X | 231 | CB Tyres, Grand Terrace, CA |
| 13 | 3407262-A | May 24, 2010 | | X | 201 | CB Tyres, Grand Terrace, CA |
| 14 | 3407262-B | May 24, 2010 | | X | 207 | CB Tyres, Grand Terrace, CA |
| 15 | 3407262-C | June 1, 2010 | | X | 228 | CB Tyres, Grand Terrace, CA |
| 16 | 3407263-A | June 1, 2010 | | X | 198 | CB Tyres, Grand Terrace, CA |
| 17 | 3407263-B | June 7, 2010 | | X | 238 | CB Tyres, Grand Terrace, CA |
| 18 | 3407263-C | June 7, 2010 | | X | 205 | CB Tyres, Grand Terrace, CA |
| 19 | 3407264-A | June 14, 2010 | | X | 215 | CB Tyres, Grand Terrace, CA |
| 20 | 3407264-B | June 17, 2010 | | X | 220 | CB Tyres, Grand Terrace, CA |
| 21 | 3407266-A | June 22, 2010 | | X | 222 | CB Tyres, Grand Terrace, CA |
| 22 | 3407266-B | June 23, 2010 | | X | 214 | CB Tyres, Grand Terrace, CA |
| 23 | 3407268-A | July 8, 2010 | | X | 209 | CB Tyres, Grand Terrace, CA |
| 24 | 3407268-B | July 8, 2010 | | X | 204 | CB Tyres, Grand Terrace, CA |
| 25 | 3407268-C | July 8, 2010 | | X | 212 | CB Tyres, Grand Terrace, CA |
| 26 | 3407266-C | July 9, 2010 | | X | 214 | CB Tyres, Grand Terrace, CA |
| 27 | 3407269-A | July 12, 2010 | | X | 228 | CB Tyres, Grand Terrace, CA |
| 28 | | | | | | |

| | | | | | | |
|----|-----------|----------------|--|---|-----|-----------------------------|
| 1 | 3407269-B | July 15, 2010 | | X | 221 | CB Tyres, Grand Terrace, CA |
| 2 | 3407269-C | July 15, 2010 | | X | 219 | CB Tyres, Grand Terrace, CA |
| 3 | 3407270-A | July 19, 2010 | | X | 210 | CB Tyres, Grand Terrace, CA |
| 4 | 3407270-B | July 21, 2010 | | X | 210 | CB Tyres, Grand Terrace, CA |
| 5 | 3407270-C | July 26, 2010 | | X | 228 | CB Tyres, Grand Terrace, CA |
| 6 | 3407271-A | July 27, 2010 | | X | 209 | CB Tyres, Grand Terrace, CA |
| 7 | 3407271-B | July 28, 2010 | | X | 252 | CB Tyres, Grand Terrace, CA |
| 8 | 3407271-C | August 4, 2010 | | X | 229 | CB Tyres, Grand Terrace, CA |
| 9 | 3407272-A | August 4, 2010 | | X | 72 | CB Tyres, Grand Terrace, CA |
| 10 | 3407272-B | August 5, 2010 | | X | 217 | CB Tyres, Grand Terrace, CA |

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12
13 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

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15 13. On at least 56 occasions between January 4, 2010 and August 5, 2010,
16 RESPONDENT violated of Public Resources Code (PRC) section 42951(a), by engaging in
17 the transportation of more than nine waste tires without first holding a valid registration for the
18 2010 calendar year, and not being exempted as specified in PRC section 42954.

19
20 **PENALTIES**

21
22 14. CALRECYCLE's authority to assess administrative penalties against
23 RESPONDENT as a waste tire hauler is set forth in PRC section 42962(c), which states:

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

1 permit, rule, regulation, standard, or requirement issued adopted pursuant
2 to this chapter. . .

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

8 15. Pursuant to 14 CCR section 18464, CALRECYCLE may assess a penalty
9 between five hundred (\$500) and one thousand (\$1,000) for each count of unregistered
10 hauling where the amount of tires hauled was between forty one (41) and one hundred (100)
11 tires; and a penalty between one thousand (\$1,000) and two thousand (\$2,000) for each count
12 of unregistered hauling where the amount of tires hauled was greater than one hundred (100)
13 tires.

14 16. In setting an appropriate administrative penalty for RESPONDENT, as required
15 by 14 CCR section 18465, CALRECYCLE has taken into consideration the following factors:

- 16 (1) The nature, circumstances, extent, and gravity of the violation.
 - 17 (2) Evidence that the violation was willful or negligent.
 - 18 (3) The good or bad faith exhibited by the party.
 - 19 (4) History of violation of the same or similar nature.
 - 20 (5) The extent to which the party has cooperated with the Department in remediating or
21 injury caused by his or her violation.
 - 22 (6) The extent that the party has mitigated or attempted to mitigate any damage or injury
23 caused by his or her violation.
 - 24 (7) Evidence of any financial gain resulting from the violation.
 - 25 (8) Such other matters as justice may require.
- 26
27
28

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8 STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

9 In the matter of:

REQUEST FOR A HEARING

10 PEDRO L. MURILLO, OWNER DBA

AGENCY No: 2010-011116-ADC

11 KORITA'S TIRE SHOP

12 Unregistered Hauler

13 TPID NO: 1007631

14 RESPONDENT.

15
16 I, _____, in the above-entitled proceeding, acknowledge
17 receipt of a copy of the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
18 ADMINISTRATIVE PENALTIES.

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

22 All correspondence concerning this proceeding should be sent to the following address:
23 (If you are represented by an attorney, all correspondence concerning this matter will be sent
24 to the attorney.)

25 _____
26 Address: Telephone:

27 _____
28 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 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, 1350 Front Street, Suite 3005, San Diego, California 92101 (619) 525-4475. That agency has control of continuances. Requests without good cause will be denied.