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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCYLING AND RECOVERY

In the matter of: PARKHOUSE TIRE SERVICE, INC. TPID NO: 1000089-01 RESPONDENT.	**AMENDED ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES** AGENCY NO: 2010-011110-ADC

INTRODUCTION

The California Integrated Waste Management Board (CIWMB) is now the Department of Resources Recycling and Recovery (CalRecycle). CalRecycle succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section 40401(a)(1). CalRecycle has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers within the State of California under Public Resources Code (PRC) section 42962 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

CIWMB served an Administrative Complaint and Request for Hearing form on PARKHOUSE TIRE SERVICE, INC. on October 28, 2010, hereinafter, "Respondent".

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RESPONDENT requested a hearing on November 1, 2010. A hearing was scheduled for July 13, 2011, in Los Angeles, California. To avoid the uncertainties of litigation, RESPONDENT negotiated a Stipulation for Issuance of Administrative Decision ("Stipulation") on July 19, 2011, that was adopted by the Department in an Administrative Decision for Waste Tire Hauler Administrative Penalties (Decision) on the same day. On July 30, 2012, CalRecycle mailed RESPONDENT a Notice of Default of Stipulation for Issuance of Administrative Decision for Waste Tire Hauler Administrative Penalties notifying RESPONDENT he is in default of the terms of the Stipulation for failing to maintain a manifest error rate of less than 7% in violation of PRC section 42961.5 and 14 CCR section 18449 et seq. RESPONDENT received the Notice of Default on August 2, 2012. RESPONDENT was given twenty (20) days from the receipt of the Notice of Default to provide evidence to CalRecycle that there was no default of the Stipulation and that failure to provide evidence would subject RESPONDENT to the full administrative penalty for waste and used tire hauler penalties in favor of CalRecycle in the sum of $24,000.00 minus any payments received and this penalty would be due within 30 days from the date of CalRecycle's final decision. On September 2, 2012, 30 days after receipt of the Notice of Default, CalRecycle had not received a response from RESPONDENT.

NEW FACTUAL FINDINGS

1. Michael Payan performed an audit of manifests, also known as Comprehensive Trip Log (CTL) Receipts, by requesting five of Parkhouse's customers in the greater Los Angeles to submit copies of CTL Receipts left at their facilities by Parkhouse's drivers, for the time period from August 1, 2011, through January 30, 2012. The information in the submitted CTL Receipts was cross-checked against the CTL Receipts submitted electronically to CalRecycle by Parkhouse.

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2. Of the 125 CTL Receipts received, Mr. Payan observed errors on the following 13, which culminated in a manifest error rate of 10.4% an error rate over the Stipulated 7% as indicated in the following chart:

CTL Receipt Number	Transaction Date	Receipt A, B & C	Error Type
4226409	--	A	Missing Load Date
4171742	08/01/2011	A	Both Pick Up and Delivery Box Checked
3271606	09/15/2011	A	Incorrect Load Date
3271811	09/26/2011	A	Both Pick Up and Delivery Box Checked
4328522	10/07/2011	A	Failed to Submit CTL Receipt to CalRecycle within 90 days
4240823	10/21/2011	C	Failed to Submit CTL Receipt to CalRecycle within 90 days.
4330013	11/01/2011	B	Missing Load Type
4362876	11/21/2011	B	Missing Load Type, Illegible Load Amount
3284922	11/28/2011	B	Both Pick Up and Delivery Box Checked
4370267	12/05/2011	A	Both Pick Up and Delivery Box Checked
4362931	12/06/2011	A	Illegible Load Amount
4328371	12/08/2011	B	Missing Load Type
4362841	12/21/2011	B	Missing Load Type

STIPULATED FACTUAL FINDINGS

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

4. As detailed in the Administrative Complaint:

a. On at least one occasion RESPONDENT failed to comply with PRC section 42951(a), by engaging in the transportation of more than nine waste tires without holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without falling under a specific exemption listed in PRC section 42954.

b. On at least one occasion RESPONDENT failed to comply with PRC section 42951(a), by engaging in the transportation of more than nine waste tires without holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without falling into a specific exemption listed in PRC section 42954.

c. RESPONDENT failed to comply with PRC section 42961.5(c)(2) by failing to submit Comprehensive Trip Logs (CTLs) to CALRECYCLE on a quarterly schedule on 23 separate occasions from March 13, 2009, through April 23, 2010,

d. RESPONDENT failed to comply with 14 CCR section 18459.2.1 by failing to submit CTLs to CALRECYCLE within 90 days of the load shipment on the same 23 separate occasions from March 13, 2009, through April 23, 2010.

STIPULATED CONCLUSIONS OF LAW

5. RESPONDENT is in violation of PRC section 42961.5 as well as 14 CCR section 18459.2.1. CALRECYCLE's authority to assess administrative penalties against RESPONDENT is set forth in PRC section 42962 et seq., and in 14 CCR section 18464.

6. Pursuant to 14 CCR section 18464, the penalty tables for waste tire facilities, the penalty of $24,000.00 is within CALRECYCLE's discretion.

ORDER

Good cause appearing, and in accordancw with the provision of Government Code section 11520, subdivision (a). THE FOLLOWING ORDER is hereby made:

PARKHOUSE TIRE SERVICE, INC. shall pay the full administrative penalty of $24,000.00 minus any payments received within 30 days 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.

Dated this 11 day of September, 2012.

MARK DE BIE
Deputy Director