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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the Matter of: **LUIS SAMAYOA MEDRANO** **TPID: 1659444-01** **RESPONDENT.**	**ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES** **PUBLIC RESOURCES CODE SECTION 42950, ET SEQ.** **Agency No: 2013-011158-ADC**

INTRODUCTION

The California Department of Resources Recycling and Recovery (CALRECYCLE) has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers and Waste Tire Facilities within the State of California pursuant to Public Resources Code (PRC) sections 42850 et seq., 42962 et seq., and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

This Administrative Decision Pursuant to Stipulation For Waste Tire Hauler Administrative Penalties is based on the Stipulation for Waste Tire Hauler Administrative Penalties (hereafter, "Stipulation") signed by RESPONDENT, Luis Samayoa Medrano, on July 11, 2014.

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On April 30, 2014, an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (hereafter, "Administrative Complaint") for $5,950.00 was issued to RESPONDENT. RESPONDENT was served with the Administrative Complaint on May 12, 2014. RESPONDENT was provided with 15 days from the date of receipt of the Administrative Complaint to request a hearing and file a "Notice of Defense/Request for Hearing" with CALRECYCLE to refute the allegations contained therein. RESPONDENT's due date to request a hearing was May 27, 2014. As of May 27, 2014, RESPONDENT did not file a "Notice of Defense/Request for Hearing" with CALRECYCLE. On May 29, 2014, Martha Perez, Attorney for CALRECYCLE, received a fax from RESPONDENT in which RESPONDENT acknowledged receipt of the Administrative Complaint and requested CALRECYCLE to consider a reduction in the penalty amount.

Pursuant to the Stipulation, and good cause appearing therefore, the following Stipulated Factual Findings and Legal Conclusions are made, and the following Order is issued:

FACTUAL FINDINGS

1. The Administrative Complaint was executed by MARTHA PEREZ, Staff Counsel, CALRECYCLE, acting in her official capacity.

2. As detailed in the Administrative Complaint:

   a. Luis Samayoa Medrano, Tire Program Identification (TPID) number 1659444, is a "Used or Waste Tire Hauler" as that term is defined in Title 14, California Code of Regulations (CCR), section 18450(a)(34).[1]

   b. On or around April 2011, RESPONDENT submitted an initial waste and used tire hauler registration application and was a registered waste and used tire hauler beginning on April 28, 2011. The 2011 hauler registration was effective until December 31, 2011.

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[1] "'Used or Waste Tire Hauler' or 'Hauler' means any person engaged in the transportation of used or waste tires, or tire casings, including haulers that the Department approved as exempt from registration pursuant to Public Resources Code Section 42954."

c. On or around November 2011, RESPONDENT submitted a renewal waste and used tire hauler registration application for calendar year 2012. The 2012 hauler registration was effective until December 31, 2012.

d. On October 1, 2012, CALRECYCLE issued a letter to RESPONDENT informing RESPONDENT that its Waste and Used Tire Hauler Registration would expire at the end of the calendar year and that California regulations require that waste and used tire haulers renew their registration 45 days before the calendar year ends, or by November 16, 2012. On this same day, CALRECYCLE issued an additional letter informing RESPONDENT of the "Zero Tolerance" policy applicable to the illegal hauling of waste or used tires without holding a current and valid CALRECYCLE hauler registration, and warned RESPONDENT that continuing to haul waste or used tires after the registration cancellation date would subject RESPONDENT to possible enforcement and punitive actions, including civil fines of up to $25,000.00 per day.

e. On January 4, 2013, a hauler cancellation letter was issued to RESPONDENT. The letter informed RESPONDENT that his Waste and Used Tire Hauler Registration had expired at the end of the 2012 calendar year, and therefore was effectively cancelled. The letter reminded RESPONDENT not to haul waste or used tires prior to being issued a current 2013 decal and registration certificate, and noticed RESPONDENT of the potential for enforcement and punitive actions for a failure to comply, including the imposition of civil penalties and/or citation by law enforcement.

f. On January 4, 2013, CALRECYCLE called RESPONDENT and verbally reminded RESPONDENT not to haul waste or used tires prior to being issued a current 2013 decal and registration certificate.

g. During the time period between January 2, 2013 and April 15, 2013, RESPONDENT illegally hauled at least five loads of 10 or more waste or

used tires. As documented on Comprehensive Trip Log (CTL) forms 4739030-A, B, C, and 4739029-A, C, RESPONDENT illegally transported five loads of between 22 – 106 passenger tire equivalents (PTEs) while being an unregistered waste and used tire hauler.

h. During the time period between March and April 2013, RESPONDENT falsified, under penalty of perjury, CTL forms 4739030-A, B, C and 4739029-A, C by using his 2012 decal number (12-04069) as his current 2013 decal number. As documented on CTL forms 4739030-A, B, C and 4739029-A, C, RESPONDENT misrepresented that he held a current waste and used tire hauler registration by completing the CTL forms using decal number **13-**04069 (the number 13- preceding the decal number indicating that the decal was a 2013 issued decal). Decal number 13-04069 was not issued to RESPONDENT and was in fact a validly issued decal belonging to registered waste tire hauler, Commercial Tire Systems.

i. On June 24, 2013 and again on August 23, 2013, RESPONDENT was afforded an opportunity to resolve the current hauler violations through settlement with CALRECYCLE by agreeing to a streamlined penalty process. RESPONDENT did not return a signed agreement form or submit payment of the reduced penalty.

j. At the time of RESPONDENT's initial hauler registration and subsequently during the annual hauler registration renewal process, RESPONDENT was provided with instructions regarding the proper completion, retention, and delivery of CTL forms or "manifest forms". At the time of RESPONDENT's initial registration and annually during the hauler registration renewal process, RESPONDENT was sent a hauler package containing the following: (1) instructions on transporting waste/used tires; (2) a complete list of hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and (3) a training compact disc on the proper

storage and transportation of waste/used tires. RESPONDENT was also sent a Comprehensive Trip Log (CTL) Guidance Manual, explaining in detail how to properly complete the CTL form, including the requirement to "manifest" (to document on the CTL form) all waste and used tire pickups and deliveries.

k. RESPONDENT completed the initial hauler registration process in April 2011 and successfully renewed his hauler registration in November 2011 for the 2012 calendar year.

CONCLUSIONS OF LAW

3. RESPONDENT violated PRC sections 42951(a) and 42952(a) by transporting five loads of 10 or more waste or used tires during the time period that RESPONDENT did not hold a valid waste and used tire registration and was not registered as a waste and used tire hauler with CALRECYCLE.

4. RESPONDENT advertised and/or represented himself as being in the business of a waste and used tire hauler without being registered as a waste and used tire hauler.

5. RESPONDENT violated PRC section 42961.5(c)(2), by falsifying and submitting to CALRECYCLE, two CTL form receipts in which he wrote his past 2012 decal number (12-04069) with the number **13**- preceding the 2012 decal number (e.g. 13-04069), misrepresenting that the decal was a 2013 issued decal.

6. RESPONDENT violated Title 14 CCR section 18454(a) and 18454(d) by hauling five loads of 10 or more used or waste tires after the January 1, 2013 expiration date of RESPONDENT's waste and used tire hauler registration, and before applying to renew the waste tire hauler registration and receiving renewal registration card(s) and vehicle decal(s) from CALRECYCLE.

7. RESPONDENT failed to submit a renewal application to CALRECYCLE 45 days prior to the January 1, 2013 expiration date.

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ORDER

CALRECYCLE approves of, and adopts the terms of the Stipulation, and the following Order is hereby made:

1. Pursuant to the terms and conditions of the Stipulation, and subject to the limitations hereunder, RESPONDENT stipulates to an administrative penalty against RESPONDENT, and in favor of CALRECYCLE, in the sum of five thousand nine hundred and fifty dollars ($5,950.00), for the violations set forth in the Stipulation. Payment of the penalty shall be satisfied in the following manner:

(a) RESPONDENT shall pay three thousand dollars ($3,000.00) to CALRECYCLE in accordance with the following:

i. RESPONDENT shall pay to CALRECYCLE the initial sum of fifteen hundred dollars ($1,500.00) on or before the 30th day after the effective date of this Administrative Decision.

ii. RESPONDENT shall make three quarterly payments to CALRECYCLE of five hundred dollars ($500.00), with the first payment due on the 60th day after the effective date of this Administrative Decision, until the total amount of said payments, together with the initial fifteen hundred dollar ($1,500.00) payment, totals three thousand dollars ($3,000.00).

iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O. Box 4025, Sacramento, CA 95812-4025, or to such other person and/or place as CALRECYCLE or its agent may from time to time designate in writing.

iv. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due date, and if RESPONDENT fails to cure the missed payment(s) within twenty (20) days of said missed payment, RESPONDENT shall be found in partial default of the Stipulation.

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(b) RESPONDENT stipulates to an administrative penalty in the sum of two thousand nine hundred and fifty dollars ($2,950.00), which shall be suspended and stayed for a period of three years. The stayed penalty shall be deemed terminated and shall not be paid by RESPONDENT following the three-year period, absent a default as described below, or a violation of the aforementioned waste tire laws and regulations.

2. The Parties agree the following shall apply to a full default or partial default of the Stipulation:

Default: In the event of a default (full or partial) by RESPONDENT of the terms/conditions stipulated to, CALRECYCLE will notify RESPONDENT by issuing a "Notice of Default." RESPONDENT will have 30 days to respond to CALRECYCLE's allegations and cure the missed payment or submit evidence that shows no default occurred. CALRECYCLE will review any counterarguments and evidence provided by RESPONDENT and will either advise RESPONDENT that it has determined no default occurred, or will issue a Supplemental Decision regarding penalties due. RESPONDENT may appeal CALRECYCLE's determination and subsequent Supplemental Decision within 30 days of issuance. Appeal to be heard by CALRECYCLE's Director, or agent designated by the Director.

i. **Full Default**: A full default shall be found for any violation of the terms and conditions set forth in the Stipulation, unless otherwise specified. A full default will result in an order for the remittance of the entire remaining penalty amount held in abeyance.

ii. **Partial Default**: If the event of a partial default, CALRECYCLE shall state the amount of penalties due, in accordance with the penalty amounts prescribed in PRC sections 42850, 42850.1, 42962 and Cal. Code Regs., tit. 14 sections 18429 and 18464. Upon review of counter arguments, CALRECYCLE shall either advise RESPONDENT that it has determined no default occurred, or shall issue an invoice ordering RESPONDENT to pay the specific penalty within 30 days. If RESPONDENT is in partial default of the Stipulation and is ordered to pay a partial default fine, and

fails to do so within 30 days, the failure shall constitute a full default of this Stipulation and the abeyance amount of $2,950.00 shall become immediately due and payable.

3. If RESPONDENT violates any of the terms and conditions set forth in the Stipulation or commits future violations of the laws, rules, and regulations set forth in Chapter 16 (commencing with PRC section 42800 et seq.), Chapter 19 (commencing with PRC section 42950 et seq.), or attendant regulations in Title 14 CCR, this shall result in automatic suspension of RESPONDENT's hauler registration for a 1-3 month period.

4. If RESPONDENT violates any of the terms and conditions set forth in the Stipulation, violates any waste tire or waste tire hauler registration laws or attendant regulations, CALRECYCLE shall inspect RESPONDENT's site at an increased frequency until RESPONDENT remedies the new violations and brings the site into compliance. RESPONDENT shall be responsible for the cost of these additional inspections. Costs of the inspection includes time preparing for the inspection, travel to the site, and time spent preparing and writing the inspection report. Failure to reimburse CALRECYCLE for an inspection pursuant to the terms and conditions contained in the Stipulation within 30 days of an invoice from CALRECYCLE, shall constitute a partial default of the Stipulation by RESPONDENT.

5. RESPONDENT shall maintain a manifest error rate of 10% or less for the three year abeyance period (violation of this term constitutes a full default).

6. RESPONDENT shall submit all CTL receipts to CALRECYCLE within 30 calendar days from the date of the pickup or delivery of tires, for the three-year abeyance period. At the expiration of this time period, RESPONDENT shall submit CTL receipts to CALRECYCLE within 90 calendar days, as specified Title 14, CCR section 18459.2.1(a).

7. RESPONDENT shall comply with all waste tire laws set forth in PRC section 42800 et seq., PRC section 42950 et seq., and attendant regulations in Title 14, CCR.

8. RESPONDENT shall abide by all of the terms and conditions set forth in the Stipulation.

9. Nothing shall be implied in the Stipulation that shall preclude CALRECYCLE from using any enforcement mechanism, whether administrative, civil, or criminal, should RESPONDENT commit future violations of waste tire storage laws or waste tire hauler laws.

This Administrative Decision shall become effective as of the date signed below.

Dated this 23rd day of July, 2014.

for

MARK DE BIE
Deputy Director
DEPARTMENT OF RESOURCES,
RECYCLING AND RECOVERY
(CALRECYCLE)