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9 STATE OF CALIFORNIA
10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
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12 In the matter of:)
13 LUIS SAMAYOA MEDRANO) ADMINISTRATIVE COMPLAINT
14 TPID NO: 1659444-01) FOR WASTE TIRE HAULER
15) ADMINISTRATIVE PENALTIES
16 RESPONDENT.) PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.
17) AGENCY NO: 2013-011158-ADC

18 **INTRODUCTION**
19

20 This Administrative Complaint For Waste Tire Hauler Administrative Penalties
21 (hereafter, "Administrative Complaint") is issued by the California Department of Resources
22 Recycling and Recovery (CALRECYCLE) to LUIS SAMAYOA MEDRANO (RESPONDENT)
23 seeking \$5,950.00. The California Integrated Waste Management Board ("Board") is now the
24 California Department of Resources Recycling and Recovery (CALRECYCLE).
25 CALRECYCLE succeeded to the Board's authority on January 1, 2010, pursuant to Public
26 Resources Code (PRC) section 40401(a)(1).

27 Pursuant to PRC section 42962(c) and Title 14 California Code of Regulations (CCR)
28 section 18463, CALRECYCLE is authorized to issue administrative civil penalties to any

1 person on whom civil liability may be imposed. This Administrative Complaint is so issued
2 based on the following facts.

3 **STATEMENT OF FACTS**

4 1. CALRECYCLE has authority to regulate and conduct enforcement actions
5 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California
6 pursuant to PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in
7 Title 14 of the California Code of Regulations, Chapter 6.

8 2. PRC section 42951(a) states, “[e]very person who engages in the transportation
9 of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt
10 as specified in Section 42954.”

11 3. PRC section 42952(a) states:

12 Except as provided in Section 42954, a person engaged in transporting
13 waste or used tires shall comply with all of the following requirements:

14 (1) The person shall be registered as a waste and used tire hauler with
15 the department [CALRECYCLE].

16 (2) The person shall not advertise or represent himself or herself as
17 being in the business of a waste and used tire hauler without being
18 registered as a waste and used tire hauler by the department.

19 4. A “Used or Waste Tire Hauler” or “Hauler” is defined as, “any person engaged in
20 the transportation of used or waste tires, or tire casings, including haulers that the Department
21 approved as exempt from registration pursuant to Public Resources Code section 42954.”
22 (Title 14 CCR section 18450(34).)

23 5. Pursuant to PRC section 42956(b), “any person who operates a vehicle . . . that
24 transports 10 or more tires without a valid and current waste and used tire hauler registration,
25 as issued by the board [CALRECYCLE] . . . , shall be subject to the enforcement actions
26 specified in Article 4 (commencing with [PRC] Section 42962).”

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1 6. Pursuant to PRC section 42961.5(c)(2):

2 Any waste and used tire hauler hauling waste or used tires for
3 offsite handling, altering, storage, disposal, or any combination thereof,
4 shall complete the California Uniform Waste and Used Tire Manifest as
5 required by the board [CALRECYCLE]. The waste and used tire hauler
6 shall provide the manifest to the waste or used tire facility operator who
7 receives the waste or used tires for handling, altering, storage, disposal,
8 or any combination thereof. Each waste and used tire hauler shall submit
9 to the board [CALRECYCLE], on a quarterly schedule, a legible copy of
10 each manifest. The copy submitted to the board [CALRECYCLE] shall
11 contain the signatures of the generator and the facility operator.

12 7. The “California Uniform Waste and Used Tire Manifest” is a form developed by
13 the Department [CALRECYCLE] pursuant to PRC section 42961.5 and is also referred to as
14 the “Comprehensive Trip Log” or “CTL.” (14 CCR section 18450(11).)

15 8. Title 14 CCR section 18454(a) requires that, “any person hauling 10 or more
16 used or waste tires shall apply for a waste tire hauler registration, unless exempt.” Subsections
17 (c) and (d) further provide that, “the initial waste tire hauler registration is valid form [sic] the
18 date of issuance to January 1 of the following year” . . . “[t]he waste tire hauler is not
19 authorized to haul used or waste tires after the January 1 expiration date unless the waste tire
20 hauler has applied to renew the waste tire hauler registration prior to expiration and has
21 received the Department issued renewal registration card(s) and vehicle decal(s).”

22 9. Title 14 CCR section 18463, subsections (a)(b) and (d), provide that any waste
23 tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,
24 requirement, or allows any violation or noncompliance with any permit, rule, regulation,
25 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,
26 transportation, or disposal of used or waste tires, shall be liable for a civil penalty. In addition,
27 “any false statement, misrepresentation, or omission of a significant fact or other required
28 information” in a waste tire hauler registration application or in a CTL form submitted to
CALRECYCLE, shall also subject that person to a civil penalty.

1 10. On or around April 2011, RESPONDENT submitted an initial waste and used tire
2 hauler registration application and was a registered waste and used tire hauler effective April
3 28, 2011. The 2011 hauler registration was effective until December 31, 2011.

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

7 12. On October 1, 2012, CALRECYCLE issued a letter to RESPONDENT informing
8 RESPONDENT that its Waste and Used Tire Hauler Registration would expire at the end of
9 the calendar year and that California regulations require that waste and used tire haulers
10 renew their registration 45 days before the calendar year ends, or by November 16, 2012. On
11 this same day, CALRECYCLE issued an additional letter informing RESPONDENT of the
12 "Zero Tolerance" policy applicable to the illegal hauling of waste or used tires without holding a
13 current and valid CALRECYCLE hauler registration after January 1, 2013. The letter warned
14 RESPONDENT that continuing to haul waste or used tires after the registration cancellation
15 date would subject him to possible enforcement and punitive actions, including civil fines of up
16 to \$25,000.00 per day.

17 13. On January 4, 2013, a hauler cancellation letter was issued to RESPONDENT.
18 The letter informed RESPONDENT that his Waste and Used Tire Hauler Registration had
19 expired at the end of the 2012 calendar year, and therefore was effectively cancelled. The
20 letter reminded RESPONDENT not to haul waste or used tires prior to being issued a current
21 2013 decal and registration certificate. The letter also reminded RESPONDENT of the
22 potential for enforcement and punitive actions for a failure to comply, including the imposition
23 of civil penalties and/or citation by law enforcement. On this same day, CALRECYCLE called
24 RESPONDENT and verbally reminded RESPONDENT not to haul waste or used tires prior to
25 being issued a current 2013 decal and registration certificate.

26 **FIVE COUNTS OF UNREGISTERED HAULING**

27 14. During the time period between January 2, 2013 and April 15, 2013,
28 RESPONDENT illegally hauled at least five loads of 10 or more waste or used tires. As

1 documented on CTL forms 4739030-A, B, C, and 4739029-A, C and as shown in the table
 2 below, RESPONDENT illegally transported five loads of between 22 – 106 passenger tire
 3 equivalents (PTEs) while being an unregistered waste and used tire hauler.

Comprehensive Trip Log	Violation	Passenger Tire Equivalents	Date of Violation	Facility
4739030-A	Unregistered Hauling, more than 100 waste or used tires	106	March 24, 2013	Rubber Recovery
4739030-B	Unregistered Hauling, 21-40 waste or used tires	32	March 26, 2013	Rubber Recovery
4739030-C	Unregistered Hauling, 21-40 waste or used tires	30	April 2, 2013	Rubber Recovery
4739029-A	Unregistered Hauling, 41-100 waste or used tires	46	April 10, 2013	Rubber Recovery
4739029-C	Unregistered Hauling, 21-40 waste or used tires	22	April 15, 2013	Rubber Recovery

12 15. During the time period between March and April 2013, RESPONDENT falsified,
 13 under penalty of perjury, CTL forms 4739030-A, B, C and 4739029-A, C by using his 2012
 14 decal number (12-04069) as his current 2013 decal number. As documented on CTL forms
 15 4739030-A, B, C and 4739029-A, C and as shown in the table below, RESPONDENT
 16 misrepresented that he held a current waste and used tire hauler registration by completing the
 17 CTL forms using decal number 13-04069 (the number 13- preceding the decal number
 18 indicating that the decal was a 2013 issued decal). Decal number 13-04069 was not issued to
 19 RESPONDENT and was in fact a validly issued decal belonging to registered waste tire hauler,
 20 Commercial Tire Systems.

Comprehensive Trip Log	Violation	Decal Number	Date of Violation
4739030 (Header)	Falsification of a manifest form – incorrect decal	13-04069	March 24, 2013 (Receipt A)
4739029 (Header)	Falsification of a manifest form– incorrect decal	13-04069	April 10, 2013 (Receipt A)

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

1 **KNOWLEDGE OF HAULING AND MANIFESTING REQUIREMENTS**

2 17. At the time of RESPONDENT's initial hauler registration and subsequently during
3 the annual hauler registration renewal process, RESPONDENT was provided with instructions
4 regarding the proper completion, retention, and delivery of CTL forms or "manifest forms". At
5 the time of RESPONDENT's initial registration and annually during the hauler registration
6 renewal process, RESPONDENT was sent a hauler package containing the following: (1)
7 instructions on transporting waste/used tires; (2) a complete list of hauler and manifesting
8 regulations (Title 14, California Code of Regulations, Chapter 6); and (3) a training compact
9 disc on the proper storage and transportation of waste/used tires. RESPONDENT was also
10 sent a Comprehensive Trip Log (CTL) Guidance Manual, explaining in detail how to properly
11 complete the CTL form, including the requirement to "manifest" (to document on the CTL form)
12 all waste and used tire pickups and deliveries.

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

15 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

16 19. CALRECYCLE is seeking administrative penalties of \$5,950.00, pursuant to PRC
17 section 42962(c) based on the above-mentioned facts and for the following violations as more
18 specifically set forth in the foregoing paragraphs:

19 20. RESPONDENT knowingly violated PRC sections 42951(a) and 42952(a) by
20 transporting five loads of 10 or more waste or used tires during the time period that
21 RESPONDENT did not hold a valid waste and used tire registration and was not registered as
22 a waste and used tire hauler with CALRECYCLE. RESPONDENT advertised and/or
23 represented himself as being in the business of a waste and used tire hauler without being
24 registered as a waste and used tire hauler.

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

1 used by RESPONDENT was a validly issued 2013 decal belonging to registered waste tire
2 hauler, Commercial Tire Systems.

3 22. RESPONDENT knowingly violated Title 14 CCR section 18454(a) and 18454(d)
4 by hauling five loads of 10 or more used or waste tires after the January 1, 2013 expiration
5 date of RESPONDENT's waste and used tire hauler registration, and before applying to renew
6 the waste tire hauler registration and receiving the Department (CALRECYCLE) issued
7 renewal registration card(s) and vehicle decal(s). RESPONDENT failed to submit a renewal
8 application to CALRECYCLE 45 days prior to the January 1, 2013 expiration date.

9 **PENALTIES**

10 23. CALRECYCLE's authority to assess administrative penalties against
11 RESPONDENT as a waste and used tire hauler is set forth in PRC section 42962(c) and Title
12 14 CCR section 18463.

13 Pursuant to PRC section 42962(c):

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

19 Title 14 CCR Section 18463, provides in relevant part:

20 Any waste tire generator, end-use facility, or waste tire hauler, or any party
21 or person who commits any of the following acts shall be liable for a civil
22 penalty:

- 23 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
24 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
generation, transportation or disposal of used or waste tires.
- 25 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
26 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
27 Public Resource [sic] Code relating to the generation, transportation or disposal
of used or waste tires.
- 28 (c) Any violation of, or noncompliance with any order issued by the Department
[CALRECYCLE] or by a hearing officer or a court relating to the generation,
transportation or disposal of used or waste tires.

1 (d) Any false statement, misrepresentation, or omission of a significant fact or other
2 required information in the application for a waste tire hauler registration,
3 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
4 Form, or in information regarding these matters subsequently reported to the
5 Department [CALRECYCLE].

6 Furthermore, Title 14 CCR section 18464 allows CALRECYCLE to impose administrative
7 penalties in accordance with the penalty table therein.

8 24. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
9 42961.5, including but not limited to: CTL violations, electronic reporting including the failure to
10 submit the CTL to CALRECYCLE, missing information, incomplete information, and false
11 information, with penalties ranging from \$100-\$500 for each first offense.

12 25. Title 14 CCR section 18464 authorizes the following penalties for each first
13 offense violation of PRC section 42951(a): (1) \$500 - \$750 for the unregistered hauling of 21-
14 40 tires per load; (2) \$500 - \$1000 for the unregistered hauling of 41-100 tires per load; (3)
15 \$1,000 - \$2,000 for the unregistered hauling of more than 100 tires per load.

16 26. RESPONDENT committed three violations of unregistered hauling of 21-40 tires
17 per load, one violation of unregistered hauling of 41-100 tires per load, and one violation of
18 unregistered hauling of more than 100 tires per load, totaling a \$4,950.00 penalty.
19 RESPONDENT also committed two violations of falsification of a CTL form, totaling a
20 \$1,000.00 penalty.

21 27. As required by Title 14 CCR section 18465, in determining an appropriate
22 administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the
23 following factors:

- 24 (1) The nature, circumstances, extent, and gravity of the violation.
- 25 (2) Evidence that the violation was willful or negligent.
- 26 (3) The good or bad faith exhibited by the party.
- 27 (4) History of violation of the same or similar nature.
- 28 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
in remediating the violation.
- (6) The extent that the party has mitigated or attempted to mitigate any damage
or injury caused by his or her violation.

- (7) Evidence of any financial gain resulting from the violation.
- (8) Such other matters as justice may require.

28. Accordingly, CALRECYCLE hereby requests that a waste tire hauler administrative penalty be assessed against RESPONDENT in the sum of \$5,950.00.

RIGHT TO A HEARING

You are hereby notified that pursuant to the provisions of PRC section 42961.1 that you are entitled to a hearing to refute the allegations against you contained in this 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/ NOTICE OF DEFENSE to our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days will be deemed a waiver of your right to a hearing.**

Pursuant to the above referenced Public Resources Code and Government Code sections, discovery requests by any party must be made within 30 days after the service of this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES.

Dated this 30th day of April, 2014.



MARTHA PEREZ
Attorney for
Department of Resources Recycling and
Recovery (CalRecycle)