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8
9 STATE OF CALIFORNIA
10 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

11
12 In the matter of:

13 TOBY RAMOS TIRE SERVICE, INC.

14 TPID NO: 1465923-01

15
16 RESPONDENT.

17 } STATEMENT OF ISSUES FOR
18 } THE DENIAL OF THE WASTE
19 } TIRE HAULER REGISTRATION

20 } PUBLIC RESOURCES CODE SECTIONS
21 } 42960; 42961
22 } GOVERNMENT CODE SECTION 11504

23 } AGENCY NO. 2015-000139-DEN

24
25 **INTRODUCTION**

26 The California Integrated Waste Management Board (CIWMB) is now the
27 California Department of Resources Recycling and Recovery (CALRECYCLE).
28 CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC
section 40401(a)(1).

Pursuant to Public Resources Code (PRC) section 42960, CALRECYCLE may
revoke, suspend, or deny a waste and used tire hauler registration for a period of up to
three years by serving a statement of issues in accordance with PRC section 42961.

This Statement of Issues For The Denial Of The Waste Tire Hauler Registration of TOBY
RAMOS TIRE SERVICE, INC. is so issued based on the following facts.

1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has authority to regulate and conduct enforcement actions
3 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of
4 California pursuant to PRC sections 42800 et seq., 42950 et seq., and attendant
5 regulations contained in Title 14 of the California Code of Regulations (CCR), Division 7,
6 Chapter 3 and Chapter 6.

7 2. PRC section 42960 (a)(1) authorizes CALRECYCLE to suspend, revoke, or
8 deny a waste and used tire hauler registration for a period of up to three years, if the
9 applicant for, or holder of the registration commits more than three violations of, or fails
10 to comply with, the requirements of Chapter 16 (commencing with PRC section 42800 et
11 seq.), Chapter 19 (commencing with PRC section 42950 et seq.), or the regulations
12 adopted pursuant to these provisions.

13 3. CALRECYCLE may deny an application of a new or renewed waste tire
14 hauler registration by issuing a statement of issues in accordance with Government
15 Code section 11504. (14 CCR section 18457(b).)

16 4. CALRECYCLE shall notify the applicant for, or holder of the registration, of
17 the suspension, revocation, or denial, and the effective date of the suspension or
18 revocation by serving a statement of issues. (PRC section 42961(a).)

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

22 6. PRC section 42952(a) states, in relevant part:

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

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

28 7. A “Waste or Used Tire Hauler” or “Hauler” is defined as, “any person
engaged in the transportation of waste or used tires, or tire casings, including haulers

1 that the Department approved as exempt from registration pursuant to Public Resources
2 Code section 42954.” (14 CCR sections 18450(34) and 18450(37).)

3 8. A “Waste Tire Hauler Registration” is defined as, “the documents, including
4 the decal and registration form, issued by the Department, which authorizes the holder of
5 the documents to legally haul waste or used tires within California for the period of
6 issuance.” (14 CCR section 18450(40).)

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

11 10. Pursuant to PRC section 42961.5(c)(2):

12 Any waste and used tire hauler hauling waste or used tires
13 for offsite handling, altering, storage, disposal, or any
14 combination thereof, shall complete the California Uniform
15 Waste and Used Tire Manifest as required by the board
16 [CALRECYCLE]. The waste and used tire hauler shall provide
17 the manifest to the waste or used tire facility operator who
18 receives the waste or used tires for handling, altering, storage,
19 disposal, or any combination thereof. Each waste and used tire
20 hauler shall submit to the board [CALRECYCLE], on a quarterly
21 schedule, a legible copy of each manifest. The copy submitted
22 to the board [CALRECYCLE] shall contain the signatures of the
23 generator and the facility operator.

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

22 12. Title 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide
23 that a registered waste tire hauler shall complete a new CTL for each pick-up or delivery
24 of any waste or used tires, shall not transport waste or used tires without a properly
25 completed CTL form, shall not transport waste or used tires without having a completed
26 copy of the CTL form in the vehicle transporting the waste or used tires, shall leave one
27 completed copy of the CTL form with the waste or used tire generator or end-use facility,
28 and shall keep a copy of the completed CTL form.

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

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

13 **THREE COUNTS OF UNREGISTERED HAULING**

14 15. RESPONDENT became a registered waste tire hauler on December 28,
15 2006. Upon initial registration and during annual renewals, RESPONDENT was
16 provided with the following: (1) a Hauler Alert informing RESPONDENT of the laws and
17 regulations surrounding transportation of waste tires to unauthorized locations; (2) a
18 copy of Title 14 CCR, Chapter 6, Article 8.5 regulations for waste tire hauler registration
19 and manifesting requirements; (3) a tri-fold brochure explaining the hauler, generator,
20 and end-use facility operator requirements; and (4) a CTL Guidance Manual, Field
21 Reference Guide, and blank CTL forms.

22 16. Since becoming a registered waste tire hauler on December 28, 2006 (for
23 the 2007 application year), RESPONDENT has renewed its Waste Tire Hauler
24 Registration each consecutive year thereafter (2008, 2009, 2010, 2011, 2012, 2013, and
25 2014). Nevertheless, RESPONDENT was late in renewing its Waste Tire Hauler
26 Registration with CALRECYCLE during four separate annual renewals – 2009, 2010,
27 2013, and 2014. CALRECYCLE assessed penalties of \$500.00 on March 15, 2010, for
28 the first offense violation of unregistered tire hauling following a late renewal, and

1 penalties of \$2,100.00 on March 21, 2013, for the second offense violation of
2 unregistered tire hauling following a late renewal.

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

14 18. On December 9, 2013, Carla Fontanilla, Program Technician with the Tire
15 Hauler Compliance Unit, spoke with Emily Ramos of TOBY RAMOS TIRE SERVICE,
16 INC. concerning the ordering of blank CTL forms. During this phone conversation, Ms.
17 Fontanilla advised Ms. Ramos that RESPONDENT would be fined if RESPONDENT
18 hauled with an expired Waste Tire Hauler Registration.

19 19. On January 2, 2014, a hauler cancellation letter was issued to
20 RESPONDENT. The letter informed RESPONDENT that his Waste Tire Hauler
21 Registration had expired at the end of the 2013 calendar year, and therefore was
22 effectively cancelled. The letter reminded RESPONDENT of the potential for
23 enforcement action and punitive actions for a failure to comply, including the imposition
24 of civil penalties and/or citation by law enforcement.

25 20. On January 7, 2014, RESPONDENT's Waste Tire Hauler Registration
26 Application (signed and dated January 6, 2014) was received and processed by
27 CALRECYCLE. Effective January 7, 2014, CALRECYCLE renewed RESPONDENT's
28 Waste Tire Hauler Registration for the 2014 calendar year.

21. On or about March 7, 2014, Keith Cambridge, Supervisor of the Tire Hauler Compliance Unit, conducted a review of the Unregistered Tire Hauler Report maintained in the Waste Tire Management System (WTMS). A review of the report revealed that RESPONDENT transported at least three loads of 10 or more waste or used tires on January 3, 5, and 6, 2014, during the time that RESPONDENT was not a registered Waste Tire Hauler. The table below highlights the hauling violations by RESPONDENT:

Comprehensive Trip Log	Violation	Passenger Tire Equivalents	Violation Date	Facility
4743888-A	Unregistered Tire Hauling, more than 100 waste or used tires	114	January 3, 2014	Team Kia of El Cajon
4743888-B	Unregistered Tire Hauling, between 21-40 waste or used tires	29	January 5, 2014	Spirit Auto Center
4743888-C	Unregistered Tire Hauling, between 41-100 waste or used tires	48	January 6, 2014	Perry Ford of National City LLC

FIVE COUNTS OF MANIFESTING VIOLATIONS

22. On or about April 7, 2014, Keith Cambridge, Supervisor of the Tire Hauler Compliance Unit, conducted a further review of CTL records maintained in WTMS. As shown in the table below, the review of CTL records indicated that RESPONDENT picked up and transported more than 7,000 waste tires (or passenger tire equivalents (PTE)) over a six-month time period (from March 3, 2013 to November 15, 2013); however, only 230 waste tires (230 PTE) were delivered during that same six-month time period. RESPONDENT completed only one CTL form showing the delivery of 230 PTE to Otay Landfill during this period. Therefore, at least five loads of waste or used tires were not manifested in accordance with PRC section 42961.5(c)(2).¹

Comprehensive Trip Log	Load Date	Pickup (PTEs)	Delivery (PTEs)	Facility Name
4743815-A	03/03/2014	172	0	Paradise Chevrolet Cadillac, Inc.
4743815-B	03/03/2014	58	0	John Hein Mazda
4743815-C	03/04/2014	61	0	North County Ford, Inc.
4743861-A	10/15/2013	121	0	Rock Auto Group, Inc.
4743861-B	10/18/2013	105	0	Perry Chrysler Dodge Jeep Ram of

¹ At an absolute maximum, a 53' trailer is capable of holding 1,400 waste and/or used tires. Therefore, 7,000 PTE divided by 1,400 equates to a minimum of at least five loads of waste or used tires that were delivered.

1					National City
2	4743862-B	10/07/2013	51	0	John Hein Mazda
3	4743862-C	10/12/2013	57	0	Courtesy Chevrolet
4	4743870-A	10/30/2013	88	0	Perry Ford of Poway, LLC.
5	4743870-B	10/30/2013	28	0	North County Ford, Inc.
6	4743870-C	10/30/2013	16	0	Bob Baker Volkswagen
7	4743871-A	10/25/2013	28	0	First Transit, Inc. #55826
8	4743871-B	10/29/2013	179	0	City Chevrolet-VW
9	4743871-C	10/29/2013	88	0	Pacific Nissan
10	4743873-A	10/22/2013	94	0	North County Ford, Inc.
11	4743873-B	10/22/2013	43	0	Bob Baker Volkswagen
12	4743878-A	12/04/2013	27	0	Perry Ford of National City, LLC.
13	4743878-B	12/04/2013	19	0	City of San Diego Fire Department
14	4743878-C	12/04/2013	15	0	First Transit, Inc. #55826
15	4743879-A	11/05/2013	35	0	Perry Ford of National City, LLC.
16	4743879-B	11/05/2013	50	0	Perry Chrysler Dodge Jeep Ram Of National City
17	4743879-C	11/13/2013	0	230	Otay Landfill
18	4743880-A	11/01/2013	110	0	John Hein Mazda
19	4743880-B	11/05/2013	39	0	Fuller Honda
20	4743880-C	11/05/2013	148	0	Fuller Ford
21	4743881-A	11/26/2013	60	0	Bob Baker Volkswagen
22	4743881-B	11/27/2013	111	0	Pacific Nissan
23	4743882-A	11/22/2013	80	0	Perry Ford of Poway, LLC.
24	4743882-B	11/25/2013	90	0	Courtesy Chevrolet
25	4743882-C	11/25/2013	60	0	City Chevrolet-VW
26	4743883-A	11/25/2013	33	0	First Transit, Inc. #55826
27	4743883-B	11/26/2013	50	0	Spirit Auto Center
28	4743883-C	11/26/2013	51	0	North County Ford, Inc.
29	4743884-A	11/19/2013	71	0	Cox Communications
30	4743884-B	11/19/2013	50	0	Perry Ford of National City, LLC.
31	4743884-C	11/19/2013	47	0	Perry Chrysler Dodge Jeep Ram of National City
32	4743885-A	12/13/2013	78	0	Team Kia of El Cajon
33	4743885-B	12/04/2013	27	0	Fuller Honda
34	4743885-C	12/04/2013	120	0	Fuller Ford
35	4743888-A	01/03/2014	114	0	Team Kia of El Cajon
36	4743888-B	01/05/2014	29	0	Spirit Auto Center
37	4743888-C	01/06/2014	48	0	Perry Ford of National City, LLC.
38	4810972-A	03/06/2014	104	0	Team Kia of El Cajon
39	4810972-B	03/06/2014	76	0	Perry Ford of National City, LLC.
40	4810972-C	03/06/2014	102	0	Perry Chrysler Dodge Jeep Ram Of National City
41	4810973-A	03/04/2014	18	0	Bob Baker Volkswagen
42	4810973-B	03/04/2014	85	0	Perry Ford of Poway, LLC.
43	4810973-C	03/04/2014	26	0	First Transit, Inc. #55826
44	4810982-A	02/14/2014	51	0	Bob Baker Volkswagen
45	4810982-B	02/18/2014	97	0	Team Kia of El Cajon
46	4810982-C	02/25/2014	122	0	Fuller Honda
47	4810983-A	02/13/2014	44	0	Perry Ford of National City, LLC.
48	4810983-B	02/13/2014	14	0	Perry Chrysler Dodge Jeep Ram of

1					National City
2	4810983-C	02/14/2014	55	0	North County Ford, Inc.
3	4810984-A	02/12/2014	245	0	Paradise Chevrolet Cadillac, Inc.
4	4810984-B	02/12/2014	109	0	John Hein Mazda
5	4810984-C	02/13/2014	75	0	Perry Ford of Poway, LLC.
6	4810985-A	02/06/2014	29	0	Perry Ford of National City, LLC.
7	4810985-B	02/06/2014	23	0	Perry Chrysler Dodge Jeep Ram of National City
8	4810986-A	01/31/2014	80	0	Courtesy Chevrolet
9	4810987-A	01/28/2014	38	0	City of San Diego Fire Department
10	4810987-B	01/29/2014	76	0	Team Kia of El Cajon
11	4810988-A	01/29/2014	22	0	South County Buick GMC
12	4810988-B	01/29/2014	82	0	Perry Chrysler Dodge Jeep Ram of National City
13	4810988-C	01/30/2014	36	0	Cox Commercial Fleet Services
14	4810989-A	01/29/2014	43	0	Fuller Honda
15	4810989-B	01/29/2014	42	0	Fuller Ford
16	4810989-C	01/29/2014	55	0	Perry Ford of National City, LLC.
17	4810990-A	01/24/2014	100	0	Perry Chrysler Dodge Jeep Ram of National City
18	4810990-B	01/28/2014	124	0	City Chevrolet-VW
19	4810990-C	01/28/2014	33	0	Pacific Nissan
20	4810991-A	01/23/2014	112	0	Perry Ford of Poway, LLC.
21	4810991-B	01/23/2014	24	0	Bob Baker Volkswagen
22	4810991-C	01/23/2014	33	0	North County Ford, Inc.
23	4810992-A	01/21/2014	53	0	John Hein Mazda
24	4810992-B	01/22/2014	298	0	Rock Auto Group, Inc.
25	4810992-C	01/23/2014	86	0	EJE, Inc.
26	4810994-A	01/21/2014	80	0	Paradise Chevrolet Cadillac, Inc.
27	4810994-B	01/21/2014	92	0	Paradise Chevrolet Cadillac, Inc.
28	4810996-A	02/25/2014	103	0	City Chevrolet-VW
	4810996-B	02/25/2014	52	0	Scottsdale Auto Lease, Inc.
	4810997-A	02/25/2014	75	0	Fuller Ford
	4810997-B	02/25/2014	40	0	Perry Ford of National City, LLC.
	4810997-C	02/25/2014	68	0	Courtesy Chevrolet
	4810998-A	01/16/2014	180	0	Fuller Ford
	4810998-B	01/16/2014	67	0	Perry Ford of National City, LLC.
	4810998-C	01/20/2014	62	0	Courtesy Chevrolet
	4810999-A	01/14/2014	150	0	EJE, Inc.
	4810999-B	01/15/2014	116	0	John Hein Mazda
	4810999-C	01/16/2014	73	0	Fuller Honda
	4811000-A	01/14/2014	15	0	Cox Commercial Fleet Services
	4811000-B	01/14/2014	74	0	North County Ford, Inc.
	4811000-C	01/14/2014	57	0	Bob Baker Volkswagen
	5017955-A	11/14/2013	11	0	Pete's Road Service, Inc.
	5017955-B	11/14/2013	100	0	Team Kia of El Cajon
	5017955-C	11/15/2013	236	0	EJE, Inc.

1 ALLEGATIONS OF SPECIFIC VIOLATIONS

2 23. On at least three separate occasions, on January 3, 5, and 6, 2014,
3 RESPONDENT violated PRC sections 42951(a) and 42952(a), by transporting 10 or
4 more waste or used tires without holding a valid Waste Tire Hauler Registration issued
5 by CALRECYCLE.

6 24. RESPONDENT violated PRC section 42961.5(c)(2) and 14 CCR section
7 18460.2(b) by failing to properly document on a CTL form the pickup and delivery of at
8 least five loads of waste or used tires.

9 25. RESPONDENT violated 14 CCR sections 18454(a) and 18455(c) by failing
10 to submit a renewal application for a Waste Tire Hauler Registration prior to the January
11 1, 2014 expiration date, or by November 16, 2013.

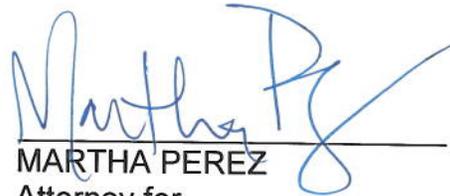
12 26. RESPONDENT's actions meet the requirements set forth in PRC section
13 42960(a)(1) which authorizes CALRECYCLE to suspend, revoke, or deny a Waste Tire
14 Hauler Registration for a period of up to three years, if the holder of the registration
15 commits more than three violations within a one year period of Chapter 16 (commencing
16 with PRC section 42800 et seq.), Chapter 19 (commencing with PRC section 42950 et
17 seq.), or the regulations adopted pursuant to these provisions.

18 RIGHT TO HEARING

19 You are hereby notified that pursuant to the provisions of PRC section 42961.1
20 and Government Code section 11505 that you are entitled to a hearing to refute the
21 allegations against you contained in this STATEMENT OF ISSUES FOR THE DENIAL
22 OF WASTE TIRE HAULER REGISTRATION. **If you wish to have a hearing on this**
23 **matter, you must complete and return the enclosed REQUEST FOR HEARING/**
24 **NOTICE OF DEFENSE to our Legal Office within 15 days of receipt of this**
25 **Statement of Issues for the Denial of Waste Tire Hauler Registration. Failure to**
26 **complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15**
27 **days will be deemed a waiver of your right to a hearing.**
28

1 Pursuant to the above referenced Public Resources Code and Government Code
2 section 11507.6, discovery requests by any party must be made within 30 days after the
3 service of this STATEMENT OF ISSUES FOR THE DENIAL OF WASTE TIRE HAULER
4 REGISTRATION.

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6 Dated this 15th day of January, 2015.



MARTHA PEREZ
Attorney for
DEPARTMENT OF RESOURCES
RECYCLING AND RECOVERY

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