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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 **In the matter of:**

12
13 **VALLEY TIRE DISTRIBUTION**

14
15 **RESPONDENT**

16
17 **TPID NO.: 1732412-01**

11 **ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES**

14 **PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.**

17 **AGENCY NO: 2014-011170-ADC**

18
19 **INTRODUCTION**

20 The California Integrated Waste Management Board (CIWMB) is now the California
21 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
22 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
23 (PRC) section 40401(a)(1).

24 Pursuant to PRC section 42851(a), CALRECYCLE is authorized to issue an
25 administrative accusation to a person on whom civil liability may be imposed. This
26 Administrative Complaint For Waste Tire Hauler Administrative Penalties of Valley Tire
27 Distribution (RESPONDENT) is so issued based on the following facts.

28 ///

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 California
4 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
5 14 of the California Code of Regulations (CCR).

6 2. A "Used or Waste Tire Hauler" or "Hauler" is defined as, "any person engaged in
7 the transportation of used or waste tires, or tire casings, including haulers that the Department
8 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (Title
9 14 CCR section 18450(a)(37).)

10 3. The "California Uniform Waste and Used Tire Manifest" is a form developed by
11 the Department [CALRECYCLE] pursuant to PRC section 42961.5 and is also referred to as
12 the "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14
13 CCR section 18450(a)(11), and must be filled out completely and accurately, including
14 providing the Tire Program Identification (TPID) number for the location of delivery or pick-up
15 of each load of waste tires.

16 4. Pursuant to PRC section 42961.5(c)(2):

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

27 5. Pursuant to 14 CCR section 18459.2.1:

28 (a) The waste tire hauler shall submit the completed original
CTL Form to the Department [CALRECYCLE] within ninety (90)
days of the load shipment. The Manifest Form shall be in the
waste tire hauler's possession while transporting used or waste
tires and shall be shown upon demand to any representative of
the Department [CALRECYCLE], any officer of the California
Highway Patrol, any peace officer, as defined in Sections 830.1 or
830.2 of the California Penal Code, or any local public officer
designated by the Department [CALRECYCLE].

(b) If approved by the Department [CALRECYCLE] pursuant to PRC section 42961.5, any person that is subject to the requirements set forth in above (a) may substitute their own functionally equivalent EDT form, once approved by the Department [CALRECYCLE], in lieu of the Department [CALRECYCLE] required form and submit an electronic report within ninety (90) days of the load shipment to the Department [CALRECYCLE], in lieu of submitting the required paper form pursuant to Section 18459.1.2. The electronic report shall include all information required to be on the CTL Form.

6. 14 CCR section 18459(b) requires the CTL form be completed.

7. Title 14 CCR section 18460.2, subsections (b), (e), and (h), provide that a registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any used or waste tires, shall not transport used or waste tires without having a completed copy of the form, and shall keep a copy of the completed CTL form.

8. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste tire hauler who intentionally or negligently violates any permit, rule, regulation, standard, requirement, or allows any violation or noncompliance with any permit, rule, regulation, standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation, transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

FAILING TO SUBMIT CTL FORMS, AND SUBMITTING A CTL FORM WITH ERRORS/OMMISSIONS

9. Between April 8, 2013 and November 3, 2013, RESPONDENT VALLEY TIRE DISTRIBUTION failed to complete and submit CTL forms to CalRecycle within 90 days after the first transactions were recorded and one CTL contained errors/omissions. The table below highlights the manifesting violations by RESPONDENT:

Comprehensive Trip Log	Violation	Transaction Date	Violation Date
4627260-A	Error/Omission on a CTL form	No Date Indicated	Unknown
4627259-A	Failure to submit CTL form	January 8, 2013	April 8, 2013
4673336-A	Failure to submit CTL form	January 10, 2013	April 10, 2013
4673318-B	Failure to submit CTL form	January 14, 2013	April 14, 2013
4673325-B	Failure to submit CTL form	January 14, 2013	April 14, 2013
4960917-B	Failure to submit CTL form	February 25, 2013	May 26, 2013
4673334-A	Failure to submit CTL form	April 3, 2013	July 2, 2013
4673332-C	Failure to submit CTL form	April 11, 2013	July 10, 2013
4960902-A	Failure to submit CTL form	May 8, 2013	August 6, 2013

4960901-C	Failure to submit CTL form	June 11, 2013	September 9, 2013
4960916-B	Failure to submit CTL form	August 5, 2013	November 3, 2013

ALLEGATIONS OF SPECIFIC VIOLATIONS

10. CALRECYCLE is seeking administrative penalties of \$5,500.00, pursuant to PRC section 42962(c) based on the above-mentioned facts and for the following violations as more specifically set forth in the foregoing paragraphs:

- a. RESPONDENT knowingly violated PRC section 42961.5(c)(2) and 14 CCR section 18459.2.1 (a) and (b) by failing to complete and submit CTL forms to CalRecycle within 90 days after the first transactions were recorded and submitting a CTL form containing errors/omissions.

PENALTIES

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

Pursuant to PRC section 42962(c):

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

Title 14 CCR section 18463, provides in relevant part:

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

- (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the Public Resources Code relating to the generation, transportation or disposal of used or waste tires.

- 1 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
2 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
3 Public Resource [sic] Code relating to the generation, transportation or disposal
4 of used or waste tires...
- 5 (c) Any violation of, or noncompliance with any order issued by the Department
6 [CALRECYCLE] or by a hearing officer or a court relating to the generation,
7 transportation or disposal of used or waste tires.
- 8 (d) Any false statement, misrepresentation, or omission of a significant fact or other
9 required information in the application for a waste tire hauler registration,
10 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
11 Form, or in information regarding these matters subsequently reported to the
12 Department [CALRECYCLE].
- 13 (e) In addition to liability for a civil penalty, the Department [CALRECYCLE] may:
- 14 (1) File a claim against any registered waste tire hauler surety bond for
15 activities resulting from the illegal disposal of tires or injury.
- 16 (2) Deny, suspend, or revoke a waste tire hauler registration.

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

19 12. Title 14 CCR section 18464 authorizes penalties for violation of PRC section
20 42961.5(c)(2), including but not limited to: CTL, Manifest violations, or Electronic reporting
21 violations; including failure to submit the CTL, manifests, or electronic reporting on a quarterly
22 basis to CALRECYCLE, missing information, incomplete information, and false information,
23 with penalties ranging from \$100-\$500 for each first offense.

24 13. RESPONDENT committed eleven manifesting violations of \$100.00 – \$500.00,
25 totaling a \$5,500.00 penalty¹.

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

- (1) The nature, circumstances, extent, and gravity of the violation.
- (2) Evidence that the violation was willful or negligent.

¹ This information was determined by collecting data from all CTLs in CalRecycle's Waste Tire Management System (WTMS) from pickups made by vehicles registered (by decal number) to RESPONDENT.

- 1 (3) The good or bad faith exhibited by the party.
- 2 (4) History of violation of the same or similar nature.
- 3 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
- 4 in remediating the violation.
- 5 (6) The extent that the party has mitigated or attempted to mitigate any damage
- 6 or injury caused by his or her violation.
- 7 (7) Evidence of any financial gain resulting from the violation.
- 8 (8) Such other matters as justice may require.

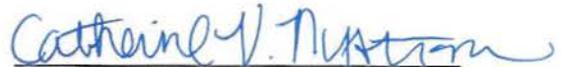
9 15. Accordingly, CALRECYCLE hereby requests that a waste tire hauler
10 administrative penalty be assessed against RESPONDENT in the sum of \$5,500.00.
11

12 RIGHT TO HEARING

13 You are hereby notified that pursuant to the provisions of PRC section 42961.1 and
14 Government Code section 11505 that you are entitled to a hearing to refute the allegations
15 against you contained in this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
16 ADMINISTRATIVE PENALTIES. **If you wish to have a hearing on this matter, you must**
17 **complete and return the enclosed REQUEST FOR HEARING/ NOTICE OF DEFENSE to**
18 **our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to**
19 **complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days**
20 **will be deemed a waiver of your right to a hearing.**

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

25
26 Dated this 16 day of March, 2015.

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