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

11 In the matter of:

12
13 E-Z TIRES

14
15 RESPONDENT

16 TPID NO.: 1663392-01

ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2014-011169-ADC

17
18 INTRODUCTION AND PROCEDURAL HISTORY

19 The California Department of Resources Recycling and Recovery (CALRECYCLE)
20 issued an Administrative Complaint for Waste Tire Hauler Administrative Penalties
21 (Administrative Complaint) and a Request for Hearing/Notice of Defense to E-Z Tires
22 (RESPONDENT) on March 16, 2015. The California Code of Civil Procedure (C.C.P.) section
23 415.20(b) states:

24 If a copy of the summons and complaint cannot with reasonable
25 diligence be personally delivered to the person to be served, as
26 specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may
27 be served by leaving a copy of the summons and complaint at the
28 person's dwelling house, usual place of abode, usual place of
business, or usual mailing address other than a United States Postal
Service post office box, in the presence of a competent member of the
household or a person apparently in charge of his or her office,

1 place of business, or usual mailing address other than a United
2 States Postal Service post office box, at least 18 years of age, who
3 shall be informed of the contents thereof, and by thereafter mailing
4 a copy of the summons and of the complaint by first-class mail,
5 postage prepaid to the person to be served at the place where a copy
6 of the summons and complaint were left. Service of a summons in this
7 manner is deemed complete on the 10th day after the mailing.

8 On March 29, 2015, RESPONDENT received substitute service when CALRECYCLE's
9 process server left the Administrative Complaint with Mohammed Akbar, the person in charge
10 of the E-Z Tires business located at 101 Aegean Way, Vacaville, California. Mr. Akbar was
11 informed of the general nature of the papers. On April 15, 2015, a copy of the Administrative
12 Complaint was sent by first-class mail to the RESPONDENT. Service is deemed complete on
13 the 10th day after the mailing, thus service was completed on April 25, 2015.

14 RESPONDENT was provided with 15 days from the date of service of the
15 Administrative Complaint to request a hearing and file a "Notice of Defense/Request for
16 Hearing" with CALRECYCLE to refute the allegations contained therein. RESPONDENT's due
17 date to request a hearing was May 11, 2015.

18 RESPONDENT did not file a Request for Hearing. The matter shall be determined as a
19 default pursuant to Title 14 of the California Code of Regulations (CCR) section 18466 and
20 Government Code section 11520.

21 The California Integrated Waste Management Board (CIWMB) is now CALRECYCLE.
22 CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public
23 Resources Code (PRC) section 40401(a)(1). CALRECYCLE takes action against
24 RESPONDENT based upon evidence and affidavits that may be used without any notice to
25 RESPONDENT.

26 **FACTUAL FINDINGS**

- 27 1. The Administrative Complaint was executed by CATHERINE V. NYSTROM,
28 Attorney, acting in her official capacity.
2. A "Used or Waste Tire Hauler" or "Hauler" is defined as, "any person engaged in
the transportation of used or waste tires, or tire casings, including haulers that the Department

1 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (Title
2 14 CCR section 18450(a)(37).)

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

7 4. PRC section 42952(a) states, in relevant part:

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

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

13 5. Pursuant to PRC section 42953 "Any person who gives, contracts, or arranges
14 with another person to transport waste or used tires shall utilize only a person holding a valid
15 waste and used tire hauler registration from the board [CALRECYCLE], unless the hauler is
16 exempt as specified in Section 42954."

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

22 7. On or about March 22, 2013, RESPONDENT E-Z TIRES contracted with Better
23 "B" Hauling, an unregistered waste tire hauler who transported at least one load of 10 or more
24 waste tires from RESPONDENT's site located at 7070 Fruitridge Road, Sacramento,
25 California, and illegally dumped these burned tires, both partial and whole, at 5108 Southwest
26 Avenue, Sacramento, California. Better "B" Hauling does not have a CALRECYCLE waste tire
27 hauler registration nor a common carrier exemption to haul 10 or more waste or used tires.
28 Therefore, RESPONDENT is in violation of section 42953. The table below highlights the
violations by RESPONDENT:

Violation Date	Violation Type	Passenger Tire Equivalents
On or about March 22, 2013	Contracting with an unregistered waste tire hauler	40-50

8. On December 5, 2013, Sacramento County Code Enforcement Officer, and two CALRECYCLE Inspectors interviewed RESPONDENT where RESPONDENT admitted to contracting with Better "B" Hauling, an unregistered hauler to haul away waste or used tires on or about March 22, 2013 in violation of PRC 42953.

LEGAL CONCLUSIONS

9. RESPONDENT is in violation of PRC section 42953 for contracting with Better "B" Hauling, an unregistered waste tire hauler who did not have a common carrier exemption to haul 10 or more waste or used tires.

ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Government Code Section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, *E-Z Tires* is ordered to pay an administrative penalty of \$1,000.00 to CalRecycle within 30 (thirty) days of the date of service of this Decision.

RESPONDENT'S RIGHT TO FILE WRITTEN MOTION

Pursuant to Government Code section 11520(c), RESPONDENT has a right to serve CALRECYCLE with a written motion requesting that the decision be vacated and stating the grounds relied on:

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 (1) Failure of the person to receive notice served pursuant to Section 11505.
2 (2) Mistake, inadvertence, surprise, or excusable neglect.
3 (Gov't Code § 11520(c).)

4 This DECISION shall become effective on the date signed below.

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6 Dated this 29 day of May 2015.

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9 _____
10 MARK DE BIE
11 Deputy Director
12 DEPARTMENT OF RESOURCES,
13 RECYCLING AND RECOVERY
14 (CALRECYCLE)
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