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STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of: WILLIE E. ABERNATHY A/K/A GENE W. ABERNATHY, OWNER AND OPERATOR d/b/a: G&W TRUCKING AND RECYCLING FACILITY NO.: 15-TI-1520 RESPONDENT.	ADMINISTRATIVE DECISION FOR ADMINISTRATIVE PENALTIES ORDER SETTING LIABILITY Agency No: 2005-010900-ADH

The California Integrated Waste Management Board ("CIWMB") served an Administrative Complaint and Request for Hearing form on WILLIE E. ABERNATHY a/k/a GENE W. ABERNATHY, OWNER AND OPERATOR d/b/a G&W TRUCKING AND RECYCLING (RESPONDENT), on September 14, 2005. RESPONDENT failed to file a Request for Hearing within fifteen days of service of the Administrative Complaint pursuant to Government Code 11505 (a). The matter shall be determined as a default pursuant to Government Code section 11520. The CIWMB takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

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FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Staff Counsel, CIWMB, acting in her official capacity.

2. WILLIE E. ABERNATHY a/k/a GENE W. ABERNATHY, OWNER AND OPERATOR d/b/a G&W TRUCKING AND RECYCLING, is responsible for waste tires being stored at 18465 Shafter Avenue, Shafter, CA, Kern County, California (Subject Property). This site is not a permitted Waste Tire Facility (WTF).

3. This site is storing approximately 1,500 tires without a minor waste tire permit and is in violation of PRC section 42834 — Minor unpermitted Waste Tire Facility, Title 14 CCR, section 17353 — Vector Control, and section 17354—Waste Tire Storage.

4. On April 5, 2004, Mike Aranda of the Kern County Environmental Health Services Department (a Waste Tire Enforcement Grantee of the CIWMB) conducted a Waste Tire Facility Inspection of G&W TRUCKING & RECYCLING and observed approximately 1,500 waste tires on the site. The tires were stored in a manner that violated the standards for storage, and vector control.

5. A review of CIWMB records revealed that no application for a minor waste tire facility was ever received from RESPONDENT.

6. A written report of the inspection and a Letter of Violation, dated April 9, 2004 was addressed and posted by U.S. Mail by Mike Aranda of the Kern County Environmental Health Services Department (A waste tire enforcement Grantee of the CIWMB, hereinafter "Grantee") to MARK ABERNATHY , Jr., Owner and WILLIE ABERNATHY, Operator, of G&W TRAUCKING AND RECYCLING, requesting that a Corrective Action Plan be submitted to the Grantee by May 21, 2004.

7. On May 24, 2004, the Grantee conducted a Waste Tire Facility Inspection of G&W Trucking and Recycling and observed more than 500 waste tires were still on the site.

8. A written report of the inspection and a Warning Letter of Violation, dated June 8, 2004 was addressed and posted by U.S. Mail by the Grantee to RESPONDENT, requesting that a Corrective Action Plan be submitted to the Grantee by July 9, 2004.

9. CIWMB Waste Tire Enforcement staff inspected the site on August 31, 2004 and observed approximately 1,500 waste tires were still on the site. The tires were stored in a manner that violated the standards for fire prevention, site security, storage, and vector control.

10. A Clean Up and Abatement Order dated January 13, 2005, was issued by the CIWMB to RESPONDENT requesting they either obtain a WTF permit or remove all waste tires from this location by February 4, 2005. Copies of destination receipts and waste tire manifests were to be submitted to the CIWMB on or before February 11, 2005. No copies of destination receipts and waste tire manifests or WTF Permit application were received by the CIWMB.

11. On February 24, 2005, Lew Elliott of the CIWMB conducted a follow-up Waste Tire Facility Inspection of this location and determined that more than 1,500 waste tires were still located on site.

12. On June 23, 2005, Lew Elliott of the CIWMB conducted a second follow up Waste Tire Facility Inspection of this location and determined that more than 800 waste tires were still located on site

ADMINISTRATIVE DECISION

Good cause appearing therefore, the following Order is hereby made:

1) RESPONDENT, WILLIE E. ABERNATHY a/k/a GENE W. ABERNATHY, OWNER AND OPERATOR d/b/a G&W TRUCKING AND RECYCLING0; is ordered to pay an administrative penalty of $25,000.00 (Twenty-five Thousand Dollars) to the California Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

2) RESPONDENT, WILLIE E. ABERNATHY a/k/a GENE W. ABERNATHY,

OWNER AND OPERATOR d/b/a G&W TRUCKING AND RECYCLING, is ordered to remove all used and waste tires from 18465 Shafter Avenue, Shafter, CA, Kern County, California. RESPONDENT shall provide to the CIWMB, destination receipts for all used and waste tires removed.

This DECISION shall become effective November 8, 2005.

DATED: 11.8.05

ROSARIO MARIN
Chair
California Integrated Waste
Management Board