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8
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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12 In the Matter of:

13 RODE ELIZAR MONTIJO,
a/k/a RUDY MONTIJO,
14 d/b/a EL CAMINO TIRE,
OWNER AND OPERATOR
15 TPID NO: 1051529-01

16 RESPONDENT.
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} ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
AGENCY NUMBER: 2005-10922-AC

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19 The California Integrated Waste Management Board ("CIWMB") served an
20 Administrative Complaint and Request for Hearing form on RODE ELIZAR MONTIJO a/k/a
21 RUDY MONTIJO d/b/a EL CAMINO TIRE ("RESPONDENT") on February 9, 2006, giving
22 RESPONDENT 15 (fifteen) days from the date of service to file the Request for Hearing
23 with the CIWMB. RESPONDENT failed to file a Request for Hearing as of today's date.
24 The matter shall be determined as a default pursuant to Public Resources Code 42851(b)
25 and Government Code section 11520. The CIWMB takes action against the
26 RESPONDENT based upon evidence and affidavits that may be used without any notice to
27 the RESPONDENT.

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2 **FACTUAL FINDINGS**

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

5 2. RESPONDENT is responsible for the transporting of used or waste tires by an
6 individual not holding a Waste Tire Hauler Registration. On or about January 15, 2004, and
7 February 5, 2004, inspectors for the San Joaquin County Department of Environmental
8 Health (DEH), inspected the EL CAMINO TIRE store and the property located at 48 E.
9 Charter Way in Stockton. On each of these dates, EL CAMINO TIRE failed to produce CA
10 Uniform Waste and Used Tire Manifests when asked for them; and failed to complete and
11 maintain copies of manifests violating Public Resources Code section PRC section
12 42961.5, and failed to use a registered waste tire hauler to transport more than nine used
13 or waste tires violating Public Resources Code section 42961.5.

14 3. On April 2, 2004, the San Joaquin Environmental Health Department conducted
15 an office hearing to discuss the violations and to allow RESPONDENT to show cause why
16 further legal action against him should not be commenced. During the hearing,
17 RESPONDENT agreed to haul less than 10 (ten) tires at a time or use a registered hauler.

18 4. On July 12, 2004, and August 16, 2004, DEH inspectors inspected the EL
19 CAMINO TIRE store and the property located at 400 E. Lodi Avenue in the City of Lodi. On
20 each of these dates, EL CAMINO TIRE failed to produce manifests when asked for them,
21 failed to complete and maintain copies of manifests, and failed to use a registered waste tire
22 hauler to transport more than nine used or waste tires violating Public Resources Code section
23 42961.5.

24 5. RESPONDENT illegally transported waste tires without CIWMB waste tire hauler
25 registration in violation of PRC section 42954, on at least four occasions:

26 6. On March 23, 2005, a DEH inspector observed a Chevrolet pickup registered to
27 RODE MONTIJO containing approximately 30 waste tires, at the EL CAMINO TIRE store at
28 340 N. Wilson Way in Stockton. The truck did not have a CIWMB waste tire hauler decal.

1 7. On April 18, 2005, the DEH inspector observed and photographed the same
2 Chevrolet pickup truck containing approximately 25 waste tires in the parking lot of EL
3 CAMINO TIRE, 48 E. Charter Way in Stockton. The truck did not have a CIWMB waste tire
4 hauler decal.

5 8. On June 6, 2005, the DEH inspector observed EL CAMINO TIRE hauling more
6 than 10 waste tires vehicles at two of their stores; the EL CAMINO TIRE store located at 48 E.
7 Charter Way in Stockton; and the EL CAMINO TIRE located at 340 N. Wilson Way in Stockton.
8 Both vehicles hauling waste tires were registered to RODE MONTIJO, and did not have waste
9 tire hauler decals.

10 9. On December 2, 2005, the DEH inspector learned from MIKE MONTIJO,
11 manager of the EL CAMINO TIRE store located at 48 E. Charter Way in Stockton that El
12 Camino Tire's practice is to haul approximately 20 waste tires at a time. MR. MONTIJO
13 admitted that he used a Chevy Pickup, CA license plate # 5R97805 to haul waste tires from
14 and to this store. There was no waste tire hauler decal on the truck. MR. MONTIJO
15 admitted the store did not have waste tire manifests.

16 LEGAL CONCLUSIONS

17 10. RESPONDENT is in violation PRC 42951, which makes it unlawful, on or after
18 January 1, 1995, to engage in the transportation of waste tires unless holding a valid Waste
19 Tire hauler Registration, unless exempted as specified in PRC section 42954.

20 11. The CIWMB's authority to assess administrative penalties against
21 RESPONDENT is set forth in PRC section 42862 and in Title 14 of the California Code of
22 Regulations section 18464.

23 12. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty tables
24 provide that the requested penalty of \$3,000.00 (Three thousand dollars) is within CIWMB's
25 discretion.

26 13. No evidence of mitigation, extenuation or rehabilitation is offered.

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ORDER

Pursuant to Public Resources Code section 42962 and Government Code section 11520, THE FOLLOWING ORDER is hereby made:

RESPONDENT, RODE ELIZAR MONTIJO a/k/a RUDY MONTIJO d/b/a EL CAMINO TIRE is ordered to pay an administrative penalty of \$3,000.00 (three thousand dollars) to the California Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

This DECISION shall become effective march 14, 2006.

DATED: march, 14, 2006



MARGO REID BROWN
Chair
California Integrated Waste Management Board