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8  
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

11 In the matter of:

12 ABELARDO PADILLA, JR. d/b/a PADILLA  
13 TIRE AND AUTO REPAIR a/k/a PADILLA  
14 TIRE a/k/a PADILLA'S TIRE a/k/a PADILLA  
15 TIRE COMPANY,  
16 Unregistered Waste and Used Tire Hauler  
17 TPID NO: 1277618-01  
18

19 RESPONDENT.  
20

ADMINISTRATIVE DECISION  
FOR WASTE TIRE HAULER  
ADMINISTRATIVE PENALTIES

AGENCY No: 2006-010939-ADC

21 The California Integrated Waste Management Board ("CIWMB") served an  
22 Administrative Complaint and Request for Hearing form on ABELARDO PADILLA, JR.  
23 D/B/A PADILLA TIRE AND AUTO REPAIR A/K/A PADILLA TIRE A/K/A PADILLA'S  
24 TIRE A/K/A PADILLA TIRE COMPANY, Unregistered Waste and Used Tire Hauler  
25 ("RESPONDENT"), on October 28, 2006. RESPONDENT did not file a Request for  
26 Hearing within 15 days of service of the Administrative Complaint. Therefore, the  
27 matter shall be determined as a default pursuant to 14 California Code of Regulations  
28 (CCR) 18466 and Government Code section 11520. The CIWMB takes action against

1 RESPONDENT based upon evidence and affidavits that may be used without any  
2 notice to RESPONDENT.

### 3 **FACTUAL FINDINGS**

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

6 2. RESPONDENT is responsible for the transportation of more than nine  
7 waste or used tires by a person not holding a valid waste tire hauler registration from  
8 the CIWMB.

9 3. RESPONDENT was previously registered as a waste tire hauler with  
10 CIWMB in 2001. On January 15, 2002, CIWMB notified Padilla Tire Company that their  
11 CIWMB waste tire hauler registration was cancelled, and that it is unlawful to haul waste  
12 tires without a CIWMB registration.

13 4. On or about November 1, 2005, RESPONDENT hauled 170 waste tires  
14 from a CHP location at 27685 Commerce Center, Temecula to Padilla Tire at 15808  
15 Foothill Blvd., Fontana, CA 92335. On April 27, 2006, RESPONDENT admitted to  
16 hauling these waste tires.

### 17 **LEGAL CONCLUSIONS**

18 5. RESPONDENT is in violation of Public Resources Code (PRC) section  
19 42951, which makes it unlawful to engage in the transportation of more than nine waste  
20 tires unless holding a valid Waste Tire Hauler Registration.

21 6. The CIWMB's authority to assess administrative penalties against  
22 RESPONDENT as a waste tire hauler is set forth in PRC section 42962 and in Title 14  
23 of the CCR section 18464.

24 7. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty  
25 tables, the requested penalty of \$2,000.00 (two thousand dollars) is within the CIWMB's  
26 discretion.

27 8. No evidence of mitigation or rehabilitation is offered.

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1 **ORDER**

2 Good cause appearing, the following order is hereby made:

3 RESPONDENT, ABELARDO PADILLA, JR. D/B/A PADILLA TIRE AND AUTO  
4 REPAIR A/K/A PADILLA TIRE A/K/A PADILLA'S TIRE A/K/A PADILLA TIRE  
5 COMPANY, is ordered to pay an administrative penalty of \$2,000.00 (two thousand  
6 dollars) to the California Integrated Waste Management Board within 30 (thirty) days of  
7 the date of this Decision.

8 **RESPONDENT'S RIGHT TO FILE WRITTEN MOTION**

9 Pursuant to Government Code section 11520 (c) RESPONDENT has a right to  
10 serve a motion:

11 Within seven days after service on the respondent of a decision based on the  
12 respondent's default, the respondent may serve a written motion requesting  
13 that the decision be vacated and stating the grounds relied on. The agency  
14 in its discretion may vacate the decision and grant a hearing on a showing of  
15 good cause. As used in this subdivision, good cause includes, but is not  
16 limited to, any of the following: (1) Failure of the person to receive notice  
17 served pursuant to Section 11505. (2) Mistake, inadvertence, surprise, or  
18 excusable neglect.

17 This DECISION shall become effective November 20, 2006

19 Dated this 20<sup>th</sup> day of November 2006.

21   
22 Margo Reid Brown  
23 CHAIR  
24 California Integrated Waste  
25 Management Board