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8
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

11 In the Matter of:)
12)
13 JOE D. MARTIN a/k/a EDWARD F.)
14 MARTIN, d/b/a AM ENTERPRISES a/k/a) ADMINISTRATIVE DECISION FOR
15 MARTIN TRUCK SERVICE a/k/a MAR) WASTE TIRE HAULER
16 PAC) ADMINISTRATIVE PENALTIES AND
FOR USED AND WASTE TIRE HAULER
17 TPID NO: 1299057-01) REGISTRATION
18)
RESPONDENTS.) AGENCY NO. 2006-010961-ADC
OAH NO. 2007020073
19 In the Matter of :)
20) AGENCY NO. 2006-000011-DEN
AM ENTERPRISES d/b/a MARTIN) OAH NO. 2007010066
21 TRUCK SERVICE)
22)
23 TPID NO: 1299057)
24)
RESPONDENTS.)

25
26 The California Integrated Waste Management Board ("CIWMB") attempted to
27 serve an Administrative Complaint and Request for Hearing form on JOE D. MARTIN
28 a/k/a EDWARD F. MARTIN, d/b/a AM ENTERPRISES a/k/a MARTIN TRUCK

1 SERVICE a/k/a MAR PAC and AM ENTERPRISES d/b/a MARTIN TRUCK SERVICE
2 ("RESPONDENTS"), these documents were not successfully served. The CIWMB
3 served an Amended Administrative Complaint on RESPONDENTS on January 19,
4 2007.

5 The CIWMB served a Statement of Issues for Waste Tire Hauler Registration,
6 Right to a Hearing, and Request for a Hearing on RESPONDENTS on December 11,
7 2006. RESPONDENTS requested a hearing and matter was scheduled before the
8 Office of Administrative Hearings on January 29, 2007.

9 The matter was heard before the Administrative Law Judge (ALJ), and after
10 closing briefs, the record was closed and the matter submitted on March 7, 2007. A
11 Proposed Decision was issued by the ALJ for adoption by the CIWMB. The CIWMB
12 rejected the Proposed Decision on June 12, 2007.

13 On August 12, 2007, RESPONDENTS negotiated a Stipulation for Issuance of
14 Administrative Decision ("Stipulation") with the CIWMB to resolve the issues in the
15 Administrative Complaint. The CIWMB hereby adopts the Stipulation. Pursuant to
16 the Stipulation, and good cause appearing therefore, the following Stipulated Factual
17 Findings and Conclusions of Law are made, and the following Stipulated Order is
18 issued:

19 STIPULATED FACTUAL FINDINGS

20 1. The CIWMB has authority to regulate and conduct enforcement actions
21 regarding Waste Tire Haulers within the State of California under PRC section 42950
22 et seq. and attendant regulations contained in Title 14 of the California Code of
23 Regulations (CCR).

24 2. The Waste and Used Tire Hauler Registration expires annually on
25 January 1, pursuant to 14 CCR section 18455.

26 3. On December 12, 2003, RESPONDENTS applied for and obtained a
27 Waste Tire Hauler Registration. On November 22, 2004, the CIWMB issued a letter
28 notifying RESPONDENTS its waste tire hauler bond was cancelled. RESPONDENTS

1 applied for and obtained a renewal of its 2005 Registration on December 20, 2004,
2 and renewed its bond. On October 17, 2005, the CIWMB notified RESPONDENTS
3 that it is necessary to renew the Registration by December 31 of each calendar year.
4 On November 18, 2005, RESPONDENT's waste tire hauler bond was cancelled. On
5 January 12, 2006, the CIWMB issued a letter notifying RESPONDENTS its waste tire
6 hauler registration was cancelled, that it is illegal to haul waste tires without a
7 registration, and all CIWMB waste tire hauler decals and manifests should be returned
8 to the CIWMB. On February 28, 2006, CIWMB staff left RESPONDENTS a message
9 that its registration was cancelled, and he cannot lawfully haul waste or used tires until
10 it is renewed. On March 2, 2006, CIWMB staff sent a Registration application renewal
11 packet to RESPONDENTS, in response to his phone call. RESPONDENTS failed to
12 renew its registration, and return the decals and manifests, yet continued to haul
13 waste and used tires and provide manifests to its customers while unregistered in
14 violation of PRC section 42951 and PRC section 42961.5.

15 4. RESPONDENTS illegally hauled 1,540 used or waste tires on or about
16 February 2006; and RESPONDENTS illegally hauled 1,200 used or waste tires on or
17 about April 2006, from 3823 East McKinley, in Fresno, California. RESPONDENTS
18 misrepresented on the manifest that the address was 1331 S. Hazelwood Ave,
19 Fresno, California.

20 5. Mr. JOE MARTIN, business owner of RESPONDENTS, illegally picked
21 up used or waste tires from Cruz Tire Shop, located at 2551 S. Elm, Fresno,
22 California, and hauled the used or waste tires as an unregistered waste tire hauler as
23 follows:

- 24 a. On or about February 2, 2006, RESPONDENTS, hauled 565 used or
25 waste tires for \$565.00.
- 26 b. On February 15, 2006, RESPONDENTS hauled 484 used or waste
27 tires for \$484.00.

1 c. On August 18, 2006, RESPONDENTS hauled 500 used or waste
2 tires for \$500.00.

3 6. Mr. JOE MARTIN, business owner of RESPONDENTS, illegally picked
4 up used or waste tires from Martin Ceja's Tire Shop, located at 565 Ventura, Fresno,
5 California, and hauled the used or waste tires as an unregistered waste tire hauler as
6 follows:

7 a. On May 16, 2006, RESPONDENTS hauled 101 used or waste tires
8 for \$101.00.

9 b. On May 30, 2006, RESPONDENTS hauled at least 106 used or
10 waste tires for \$116.00.

11 c. On July 17, 2006, RESPONDENTS hauled at least 80 used or waste
12 tires for \$80.00.

13 d. On August 3, 2006, RESPONDENTS hauled at least 76 used or
14 waste tires for \$76.00.

15 e. On August 16, 2006, RESPONDENTS hauled at least 90 used or
16 waste tires for \$90.00.

17 f. On September 5, 2006, RESPONDENTS hauled at least 135 waste
18 tires for \$135.00.

19 7. Mr. JOE MARTIN, business owner of RESPONDENTS, illegally picked
20 up used or waste tires from Cruz Tire Shop #2, 1237 B Street, Fresno, CA, and hauled
21 the used or waste tires as an unregistered waste tire hauler as follows:

22 a. On February 24, 2006, RESPONDENTS hauled 950 used or waste
23 tires, and was paid \$712.00.

24 b. On March 3, 2006, RESPONDENTS hauled 98 used or waste tires,
25 and was paid \$98.00.

26 c. On August 14, 2006, RESPONDENTS hauled 500 used or waste
27 tires, and was paid \$500.00.

1 8. On June 12, 2006, RESPONDENTS illegally picked up and hauled 88
2 used or waste tires from Jim Service Tire Shop, 2970 S. Elm, Fresno, California, and
3 was paid \$1.00 per tire.

4 9. On July 17, 2006, RESPONDENTS illegally picked up and hauled 45
5 used and waste tires from O'brien's Brake Service, 1515 Merced St., Fresno,
6 California.

7 10. On or about July 20, 2006, RESPONDENTS illegally hauled more than
8 nine waste tires on at least five occasions from Punjab Truck & Trailer Repair,
9 located at 3490 S. Maple Ave. "A", Fresno, California, to a diesel rig trailer parked on
10 Golden State and Central in Fresno, California.

11 11. RESPONDENTS illegally hauled waste or used tires to the Pacheco
12 Pass Landfill located on 3675 Pacheco Pass Hwy, Gilroy, California 95020, as follows:

13 a. On or about February 13, 2006, RESPONDENTS hauled 9.43 tons of
14 waste or used tires.

15 b. On or about February 14, 2006, RESPONDENTS hauled 8.22 tons of
16 waste or used tires.

17 c. On or about March 7, 2006, RESPONDENTS hauled 11.66 tons of
18 waste or used tires.

19 d. On or about March 22, 2006, RESPONDENTS hauled 16.15 tons of
20 waste or used tires.

21 e. On or about March 27, 2006, , RESPONDENTS hauled 8.14 tons of
22 waste or used tires.

23 f. On or about April 7, 2006, RESPONDENTS hauled 16.60 tons of
24 waste or used tires.

25 g. On or about April 4, 2006, RESPONDENTS hauled 5.31 tons of
26 waste or used tires.

27 h. On or about April 10, 2006, RESPONDENTS hauled 15.21 tons of
28 waste or used tires.

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- i. On or about April 27, 2006, RESPONDENTS hauled 12.53 tons of waste or used tires.
- j. On or about June 23, 2006, RESPONDENTS hauled 6.9 tons of waste or used tires.
- k. On or about June 16, 2006, RESPONDENTS hauled 7.36 tons of waste or used tires.
- l. On or about July 11, 2006, RESPONDENTS hauled 11.70 tons of waste or used tires.
- m. On or about July 17, 2006, RESPONDENTS hauled 7.15 tons of waste or used tires.
- n. On or about August 4, 2006, , RESPONDENTS hauled 8.30 tons of waste or used tires.
- o. On or about July 19, 2006, RESPONDENTS hauled 8.95 tons of waste or used tires.
- p. On or about August 9, 2006, RESPONDENTS hauled 10.65 tons of waste or used tires.
- q. On or about August 11, 2006, RESPONDENTS hauled 7.38 tons of waste or used tires.
- r. On or about August 15, 2006, RESPONDENTS hauled 9 tons of waste or used tires.
- s. On or about August 29, 2006, RESPONDENTS hauled 8.17 tons of waste or used tires.
- t. On or about September 5, 2006, RESPONDENTS hauled 9.89 tons of waste or used tires.

12. On or about September 5, 2006, October 4, 2006, and November 14, 2006, RESPONDENTS were responsible for illegally dumping and storing more than 500 waste tires at an unauthorized, unpermitted, waste tire facility located at 17265 South Bethel, Kingsburg, California 93631. In fact, the property

1 owner and JOE MARTIN, business owner of AM Enterprises, had an agreement that
2 JOE MARTIN would haul used or waste tires to the property, and then the property
3 owner would cut out the side walls for resale. As a result, on November 14, 2006,
4 there were 7,320 waste tires on said property, creating an unpermitted, major waste
5 tire facility at this location in violation of PRC sections 42823.

6 13. On November 7, 2006, RESPONDENTS applied for a Registration
7 pursuant to Public Resources Code (PRC) section 42951.

8 **STIPULATED CONCLUSIONS OF LAW**

9 RESPONDENTS violated PRC section 42951 on numerous occasions as
10 described above, which makes it unlawful, on or after January 1, 1995, to engage in
11 the transportation of waste tires unless holding a valid Waste Tire Hauler Registration.

12 RESPONDENTS violated PRC section 42823 by transporting used and waste
13 tires to, and participating in the creation of, an unpermitted major waste tire facility.

14 CIWMB has the authority to impose an administrative penalty of \$10,000.00,
15 and to hold \$7,500.00 in abeyance for two years to be imposed in the event of
16 violations of the terms and conditions of the Stipulation.

17 **ORDER**

18 The CIWMB approves of the terms of the Stipulation and the following order is
19 hereby made:
20

21 a. RESPONDENTS (JOE D. MARTIN a/k/a EDWARD F. MARTIN, d/b/a AM
22 ENTERPRISES a/k/a MARTIN TRUCK SERVICE a/k/a MAR PAC and AM
23 ENTERPRISES d/b/a MARTIN TRUCK SERVICE) are ordered to pay an
24 administrative penalty of \$2,500.00 (two thousand five hundred dollars) to the CIWMB
25 according to the terms of the Stipulation.
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27 b. RESPONDENT'S Used and Waste Tire Registration is hereby suspended
28 for eight months for the reasons stated in the Statement of Issues. Said

1 suspension shall occur from January 1, 2007 to August 31, 2007. The
2 CIWMB shall issue a 2007 used and waste tire hauler registration to
3 RESPONDENTS A&M ENTERPRISES for use beginning on September 1,
4 2007.

5
6 c. Waste Tire Removal Schedule: RESPONDENTS shall make good faith
7 efforts to remove all waste tires and waste tire equivalents from the
8 Kingsburg waste tire facility (Kingsburg Facility) located at 17265 South
9 Bethel Avenue, Kingsburg, California 93631, Assessor's Parcel Numbers
10 056-050-23 and 002-010-001, and owned by Ruth Dow, and operated by
11 Robert Dow. The parties understand that if the operator or owner do not
12 consent to property access, then cleanup is not possible. All waste tires
13 removed from the premises must be legally transported by a Registered
14 Waste Tire Hauler to a CIWMB approved facility. Copies of destination
15 receipts and waste tire manifest forms must accompany each load and be
16 submitted to CIWMB as required by law to both parties listed below:

- 17
18 1) CIWMB, Legal Office, Attn: Wendy A. Breckon, Senior Staff Counsel,
19 P.O. Box 4025, MS 23A, Sacramento, CA 95812; and
20 2) Keith Cambridge, Supervisor, Waste Hauler Compliance Section,
21 P.O. Box 4025, MS 10A, Sacramento, CA 95812.

22 d. RESPONDENTS shall renew the used and waste tire hauler registration on
23 an annual basis such that the registration remains current, and does not expire.

24 e. RESPONDENTS shall manifest all loads of used or waste tires, and
25 submit all manifests to CIWMB.

26 f. RESPONDENTS' trailers are not to be parked along public rights of way.

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28 This DECISION shall become effective August 22, 2007

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Dated this 22nd day of August, 2007.


MARGO REID BROWN
Chair
CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD