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8 STATE OF CALIFORNIA

9 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

10 In the matter of:

11 WHITEY'S TBA, INC. d/b/a VALERO
12 SERVICE STATION (R7248) a/k/a
13 ROHNERT PARK VALERO
14 TPID NO: 1421196-01
15 APN 143-150-030
16 RESPONDENT.

ADMINISTRATIVE DECISION
PURSUANT TO STIPULATION FOR
WASTE TIRE HAULER PENALTIES

AGENCY No: 2006-010948-ADC

OAH No. 2006110646

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18 The California Integrated Waste Management Board ("CIWMB")

19 served an Administrative Complaint and Request for Hearing form on Kim and Michael
20 Gutzman, officers of WHITEY'S TBA, INC. d/b/a VALERO SERVICE STATION
21 (R7248) a/k/a ROHNERT PARK VALERO ("RESPONDENT"), on November 8, 2006.

22 RESPONDENT negotiated a Stipulation for Issuance of Administrative Decision
23 ("stipulation") with the CIWMB to resolve the issues in the Administrative Complaint.

24 Pursuant to the stipulation entered into by and between the CIWMB and
25 RESPONDENT and good cause appearing therefore, the parties chose to stipulate to
26 a penalty based on the following stipulated facts and violations of law:

27 **STIPULATED FINDINGS**

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

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

5 3. RESPONDENT is responsible for failing to maintain or submit to CIWMB
6 manifests for waste tire hauling pursuant to PRC section 42961.5.

7 4. CIWMB or its Waste Tire Enforcement Grantee in Sonoma County,
8 inspected the subject facility on or about February 7, 2006, March 8, 2006, April 11,
9 2006, and June 28, 2006 (hereinafter "inspections"). The inspector determined that
10 RESPONDENT generated waste tires. In addition, both an employee of
11 RESPONDENT, and KIM GUTZMAN, Director and Officer of WHITEY'S TBA, INC.
12 ("the corporation"), admitted that RESPONDENT uses waste tire haulers to remove its
13 waste tires, and that the waste tire haulers provide the subject business with CIWMB
14 manifests.

15 5. These inspections included a number of on-site training sessions
16 explaining to employees the laws concerning waste tire hauler manifesting, and how
17 this facility was in violation of the manifesting laws because no manifests were
18 maintained at the facility or submitted to CIWMB. In addition, the inspectors contacted
19 MICHAEL AND KIM GUTZMAN, officers and directors of the corporation, to explain
20 the laws and how to come into compliance with said laws.

21 6. A Notice of Violation was issued on February 7, 2006, and a compliance
22 date of March 8, 2006, was granted to RESPONDENT for the purpose of locating past
23 manifests from a hauling incident that agents for RESPONDENT admit occurred 12 to
24 18 months ago. A time extension was granted on March 8, 2006, because of a
25 change in management of the Valero Station. On or about March 8, 2006, the
26 Sonoma County inspector (MARTIN SHEPPARD) contacted KIM GUTZMAN (officer
27 of corporation), who stated she maintained manifests off-site, and agreed to put
28 copies of the manifests in her "HazMat" book at the facility by the compliance date of
April 8, 2006.

1 7. A second Notice of Violation was issued on April 11, 2006 because
2 RESPONDENT continued to fail to maintain manifests at the facility or submit the
3 manifests to the CIWMB.

4 **STIPULATED VIOLATIONS OF LAW**

5 8. RESPONDENT is in violation of PRC section 42961.5 by 1) failing to
6 submit manifests to the CIWMB; and 2) failing to retain manifests at it's facility for
7 three years after hauling.

8 **STIPULATED ORDER**

9 The CIWMB approves of the terms of the Stipulation with the addendum that
10 should RESPONDENT default, the CIWMB will send written notification to
11 RESPONDENT and a copy to Valero Corporate Headquarters, advising of the default.
12 The following order is hereby made:

13 WHITEY'S TBA, INC. d/b/a VALERO SERVICE STATION (R7248) a/k/a
14 ROHNERT PARK VALERO is ordered to pay an administrative penalty of \$500.00
15 (five hundred dollars) to the CIWMB.

16 This DECISION shall become effective April 17, 2007.

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18 Dated this 17th day of April, 2007.

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22 MARGO REID BROWN
23 Chair
24 CALIFORNIA INTEGRATED WASTE
25 MANAGEMENT BOARD
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