

1 ELLIOT BLOCK SBN 116999  
2 Chief Counsel  
3 WENDY BRECKON SBN 182952  
4 Senior Staff Counsel  
5 Attorneys for Complainant  
6 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
7 1001 I Street, 23<sup>rd</sup> Floor  
8 P. O. Box 4025  
9 Sacramento, CA 95812-4025  
10 Telephone: (916) 341-6068  
11 Facsimile: (916) 341-6082

12 STATE OF CALIFORNIA  
13 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

14 IN THE MATTER OF:  
15 KIRK COFER; NEVADA TIRE RECYCLING  
16 INC.

ADMINISTRATIVE COMPLAINT FOR  
WASTE TIRE HAULER  
ADMINISTRATIVE PENALTIES, PUBLIC  
RESOURCES CODE SECTION 42960

AGENCY NO. 2007-010997-ADC

17 TPID NO: 1004429

18 RESPONDENTS.

19 INTRODUCTION

20 This Complaint for Penalty is issued by the California Integrated Waste  
21 Management Board (CIWMB) to KIRK COFER; and NEVADA TIRE RECYCLING INC.  
22 (RESPONDENTS), a waste tire hauler whose mailing address is P.O. Box 78, Silver  
23 Springs, NV 89429, seeking thirty-four thousand, five hundred dollars (\$34,500.00).  
24 Section 42962 of the Public Resources Code (PRC) authorizes the CIWMB to  
25 administratively impose penalties for violations of any provision of PRC section 42960 et  
26 seq. This complaint is so issued based on the following facts:

27 ///

28 ///



1 regulations. Mr. KIRK COFER, President of Nevada Tire Recycling Inc., applied for a  
2 2008 Waste and Used Tire Hauler Registration, but withdrew this application on  
3 January 15, 2008, after discovering that CIMWB was going to take enforcement action  
4 against the hauler registration. RESPONDENTS have not been registered waste and  
5 used tire haulers since January 1, 2008.

6 MISREPRESENTATION OF VEHICLE INFORMATION ON WASTE TIRE HAULER  
7 APPLICATION

8 6. RESPONDENTS misrepresented on the waste and used tire hauler  
9 applications for 2005, 2006, and 2007, that a trailer was in fact a pick-up truck with  
10 Nevada License no. D21SHJ, in violation of 14 CCR section 18831, Form CIWMB 60,  
11 and as a result, CIWMB issued an invalid registration for the trailer.

12 MERCED COUNTY VIOLATIONS

13 7. On thirteen occasions, RESPONDENTS hauled waste tires to GOLDEN  
14 BY-PRODUCTS, located at 13000 Newport Road, Ballico, CA 95303, and an end-use  
15 facility. RESPONDENTS failed to submit manifests or comprehensive trip logs (CTLs)  
16 to the end-use facility in violation of PRC section 42961.5 for the following loads of  
17 waste tires:

18

Date	Quantity of Tires	License Plate #
9/8/06	2.08 tons	D21SHJ
9/13/06	2.09 tons	D21SHJ
10/9/06	16.84 tons	TP00042
3/19/07	2 tons	6J92767
4/3/07	1.08 tons	6J92767
4/5/07	2.66 tons	6J92767
4/5/07	2.46 tons	6J92767
4/11/07	2.32 tons	6J92767

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4/13/07	2.90 tons	6J92767
4/16/07	3.02 tons	6J92767
4/17/07	2.30 tons	6J92767
4/17/07	2.48 tons	6J92767
4/17/07	3.08 tons	6J92767

On October 9, 2006, RESPONDENTS used a vehicle that is not registered with CIWMB for hauling waste tires, license plate no. TP00042, to transport 16.84 tons of waste tires to GOLDEN BY-PRODUCTS, Inc. located at 13000 Newport Road, Ballico, CA 95303, in violation of PRC section 42956(b).

SACRAMENTO COUNTY VIOLATION

8. On November 8, 2007, RESPONDENTS used a vehicle that is not registered with CIWMB for hauling waste tires, Nevada license plate no. 80269S, to transport at least 100 waste tires while driving southbound on Highway 5 in the Sacramento area in violation of PRC section 42956(b).

BUTTE COUNTY VIOLATIONS

9. Between on or about 2005 and on or about October 11, 2007, RESPONDENTS violated PRC section 42951(b) when they delivered approximately 70 truck or tractor waste tires to an unpermitted, unfenced lot on Feather River Blvd. in Oroville, California, Assessor Parcel no. 035-340-022. On October 11, 2007, after Mr. COFER was asked to cease dumping tires by a concerned citizen, Mr. COFER ignored this request, and delivered another 10 waste tires on the property later in the day on October 11, 2007.

10. RESPONDENTS failed to submit a manifest to CIWMB pursuant to PRC section 42961.5 for the October 11, 2007, delivery of 10 waste tires to Assessor Parcel

1 No. 035-340-022, which is an unpermitted, unfenced lot on Feather River Blvd. in  
2 Oroville, California.

3 11. On or about September 23, 2008, Scot Johnson, an inspector for Butte  
4 County, determined that more than 500 waste tires were located at 2593 South 5<sup>th</sup> Ave.,  
5 Oroville, CA 96965. RESPONDENTS were operating an unpermitted minor (WTF)  
6 Waste Tire Facility at this location pursuant to PCR § 42808 and 42835, and have  
7 ignored requests to remove the trailers and the waste tires from the property.

8 YUBA COUNTY VIOLATIONS

9 12. On or about April 2007, RESPONDENTS transported 200 waste tires in  
10 violation of PRC section 42951(b) to CLUTCH CARGO, a customer of RESPONDENTS  
11 and an unpermitted facility, located at 5544 Feather River Blvd, Marysville, California  
12 95901. Mr. COFER promised to pick the waste tires up, but instead illegally provided  
13 a temporary CIWMB registration to the owner of Clutch Cargo in violation of 14 CCR  
14 sections 18456.4, and 18831, Form 60. As of November 20, 2007, at least 150 waste  
15 tires remained on the premises.  
16

17  
18 13. RESPONDENTS violated PRC section 42961.5 when they failed to  
19 manifest the waste tires on or about April 2007 that were transported to CLUTCH  
20 CARGO, located at 5544 Feather River Blvd, Marysville, California 95901.  
21

22 14. On or about June 2007, RESPONDENTS transported 12 waste tires to  
23 JOE'S TRUCKING, a customer of RESPONDENTS and an unpermitted facility, located  
24 at 2754 Pacific Ave., Nicolaus, CA 95659 in violation of PRC 42951(b).  
25  
26  
27  
28

1 15. RESPONDENTS violated PRC section 42961.5 when they failed to  
 2 manifest the waste tires on or about June 2007 that were transported to JOE'S  
 3 TRUCKING, located at 2754 Pacific Ave., Nicolaus, CA 95659.

4 MANIFEST ERROR VIOLATIONS

5 Out of 101 manifests submitted by RESPONDENTS for the pick-ups or deliveries  
 6 of waste tires from on or about April 1, 2007 to September 1, 2007, RESPONDENTS  
 7 submitted 28 incorrect and/or incomplete manifests for an error rate of 27.7%. The  
 8 submittal of incorrect or incomplete manifests is a violation of PRC section 42961.5.  
 9 The following table shows the Comprehensive Trip Log number (CTL) and type of error  
 10 that RESPONDENTS made on their CTLs:

Manifest/CTL Number	Receipt	Date	Errors
3036804	C	6-27-07	Invalid TPID #
3036446	A	7-3-07	Invalid TPID #
3036429	B	8-27-08	Load Type Checked Twice, Missing Facility Address, Incorrect date
3036437	B	7-28-07	Invalid TPID #
3036441	A,B	5-21-07; 7-75-07	Invalid TPIDS # Illegible date
3036442	A	7-17-07	Missing TPID#
3036430	A	8-19-07	Invalid TPID #
3036436	A	7-31-07	Invalid TPID #
3036443	A	7-10-07	Invalid TPID #
3036413	C	6-28-07	Invalid/Illegible TPID #
3036801	A,B,C	4-25-07; 4-26-07	Multiple: Invalid/Illegible TPID #, Illegible Facility Name & Address, Missing Load Information Amount
3036805	B,C	7-28-07	Multiple: Missing Load Type, Pick Up or Delivery Not Checked, Missing Address
3036808	A,B,C	4-17-07; 4-18-07	Multiple: Missing Load Type, Missing Address, Missing Facility Phone Number, Illegible TPID#
3035810	A,B	4-11-07	Multiple: Missing TPID#, Missing Facility Phone Number, Missing Facility Address
3035811	A,B	4-4-07; 4-10-07	Missing TPID#, Missing Facility Phone Number, Missing Facility Address, Missing Load Type

1	3036813	B,C	4-2-07	Missing Load Type, Missing Load Amount, Invalid TIPD#
2	3036427	B	4-5-07	Missing Facility TPID#
3	3036428	A, Header	Unknown	Missing Load Date, Illegible License#
4	3036431	B,C	8-15-07; 8-24-07	Missing Load Type, Load Type Checked Twice, Invalid TPID#
5	3036432	A,B	8-4-07; 8-10-07	Multiple: Missing Load Type
6	3036433	B	8-7-07	Missing Load Type
7	3036435	Header	8-1-07	Illegible Decal #, Illegible License#
8	3036438	B,C	7-27-07	Multiple: Missing Load Type
9	3036446	B	7-2-07	Load Pick up or Delivery Not Checked
10	3036876	A, Header	4-6-07	Missing Load Type, Missing License Plate State
11	3036878	B, Header	5-7-07	Illegible License #, Missing Load Date
12	3036880	A,B,C	5-1-07; 5-3-07	Multiple Missing Load Types, Missing Load Amount, Missing Facility Addresses
13	3036881	Header	5-4-07	Illegible License #

#### ALLEGATIONS OF SPECIFIC VIOLATIONS

16. CIWMB is requesting thirty-four thousand, five hundred dollars (\$34,500.00) in waste tire hauler administrative penalties based on the above-mentioned facts and for the following violations:

- a. RESPONDENTS violated PRC section 42956(b) as described above, which makes it unlawful to operate a vehicle that transports 10 or more waste tires without a valid and current waste and used tire hauler registration in the vehicle.
- b. RESPONDENTS violated PRC section 42962(a)(2) as described in the facts above by knowingly, or with reckless disregard, making any false statement or representation in any application, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with the waste tire hauler laws.

- 1 c. RESPONDENTS violated PRC section 42951(b) as described  
2 above, when they unlawfully transported waste or used tires to a  
3 facility that is not permitted, excluded, exempted, or otherwise  
4 authorized by the Board.
- 5  
6 d. RESPONDENTS violated PRC section 42961.5 when they  
7 transported used or waste tires and failed to manifest, or  
8 misrepresented or omitted information in the manifests.
- 9 e. RESPONDENTS violated 14 CCR sections 18456.4, and 18831,  
10 Form 60, by providing a temporary CIWMB registration to the  
11 owner of CLUTCH CARGO.

### 12 PENALTIES

13 17. The CIWMB's authority to assess administrative penalties against  
14 RESPONDENTS as a waste tire hauler is set forth in PRC section 42962(c), which  
15 states:

16 In addition to the civil penalty which may be imposed pursuant to  
17 subdivision (a), the board may impose civil penalties administratively  
18 in an amount not to exceed five thousand dollars (\$5,000) for each  
19 violation of a separate provision or for continuing violations for each  
20 day that violation continues, on any person who intentionally or  
negligently violates any permit, rule, regulation, standard, or  
requirement issued adopted pursuant to this chapter. . .

21 Under this section, RESPONDENTS are subject to a separate administrative  
22 penalty of up to \$5,000.00, for each occasion upon which they have hauled waste tires  
23 without a valid Waste Tire Hauler Registration. Furthermore, 14 CCR section 18464  
24 allows the imposition of penalties in accordance with that penalty table.

25 18. In setting an appropriate administrative penalty, the CIWMB has taken into  
26 consideration the nature, extent and gravity of the violations, and the complete  
27 disregard of applicable statute and regulation by RESPONDENTS. The CIWMB now  
28

1 requests that administrative penalty liability be assessed against RESPONDENT in the  
2 sum of thirty four thousand, five hundred dollars (\$34,500.00).

3  
4 **RIGHT TO HEARING**

5 19. You are hereby notified that pursuant to the provisions of section 42960 of  
6 the California Public Resources Code and Government Code section 11506, that you  
7 are entitled to a hearing to refute the allegations against you contained in this  
8 Administrative Complaint. **If you wish to have a hearing on this matter, you must**  
9 **complete and return the enclosed REQUEST FOR HEARING to our Legal Office**  
10 **within 15 days of receipt of this notice. Failure to complete and return the**  
11 **REQUEST FOR HEARING within 15 days will be deemed a waiver of your rights to**  
12 **a hearing.**

13 Pursuant to the above referenced Public Resources Code and Government Code  
14 sections, discovery requests by any party must be made within thirty days after the  
15 service of this Administrative Complaint.

16 Dated this 6th day of October, 2008.

17  
18  
19   
20 \_\_\_\_\_  
21 Wendy Breckon  
22 Senior Staff Counsel  
23 California Integrated Waste  
24 Management Board  
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27  
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1 STATE OF CALIFORNIA  
2 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

3  
4 In the matter of:  
5 KIRK COFER; NEVADA TIRE RECYCLING  
6 INC.

AGENCY No: 2007-010997-ADC

**REQUEST FOR A HEARING**

7 TPID NO: 1004429

8  
9 RESPONDENT  
10  
11

12 I, \_\_\_\_\_, in the above-entitled proceeding, acknowledge receipt of a  
13 copy of the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE  
14 PENALTIES, PUBLIC RESOURCES CODE SECTION 42960.

15 I hereby request a hearing to permit me to present my defense to the charges  
16 contained in said ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER  
17 ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42960.

18 All correspondence concerning this proceeding should be sent to the following  
19 address:

20  
21 (If you are represented by an attorney, all correspondence concerning this matter will be sent  
22 to the attorney.)

23 \_\_\_\_\_  
24 Address: Telephone:

25 City: State: Zip Code:

26 Signature: \_\_\_\_\_

27 Date: \_\_\_\_\_

28 Please send to:

CIWMB Legal Office  
Attention: Gloria Bell  
P.O. Box 4025, MS 23-A  
Sacramento, CA 95812-4125



LINDA S. ADAMS  
SECRETARY FOR ENVIRONMENTAL  
PROTECTION

# CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD



ARNOLD SCHWARZENEGGER  
GOVERNOR

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812-4025  
(916) 341-6000 • WWW.CIWMB.CA.GOV

MARGO REID BROWN  
CHAIR  
MBROWN@CIWMB.CA.GOV  
(916) 341-6051

WESLEY CHESBRO  
WCHESBRO@CIWMB.CA.GOV  
(916) 341-6039

JEFFREY DANZINGER  
JDANZINGER@CIWMB.CA.GOV  
(916) 341-6024

ROSALIE MULÉ  
RMULÉ@CIWMB.CA.GOV  
(916) 341-6016

CHERYL PEACE  
CPEACE@CIWMB.CA.GOV  
(916) 341-6010

GARY PETERSEN  
GPETERSEN@CIWMB.CA.GOV  
(916) 341-6035

## RIGHT TO A HEARING

Your are hereby notified that pursuant to the provisions of 14 California Code of Regulations section 18466 and Government Code section 11505 that you are entitled to a hearing to refute the allegations against you contained in the ADMINISTRATIVE COMPLAINT. **If you wish to have a hearing on this matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal Office within 15 days of receipt of this notice. Failure to complete and return the REQUEST FOR HEARING within 15 days will be deemed a waiver of your right to a hearing.**

## HEARING PROCEDURES

If you request one, a hearing will be conducted before an Administrative Law Judge of the Office of Administrative Hearings of the Department of General Services, at one of their office locations throughout the State, upon the charges made in the ADMINISTRATIVE COMPLAINT.

1. You may be present at the hearing.
2. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney



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to represent you at public expense. You are entitled to represent yourself without legal counsel.

3. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you.
4. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings.
5. Pursuant to 1 California Code of Regulations, section 1032, parties are entitled, upon request, to be provided with the assistance of an interpreter if they do not proficiently speak or understand the English language. If you require the assistance of an interpreter, timely notice of this fact should be given to our office so that appropriate arrangements can be made.
6. You are hereby further notified that pursuant to the provisions of 14 CCR section 17050 et seq. the violations alleged against you may cause you to be placed on the CIWMB's Unreliable Contractors, Subcontractors, Borrowers, and Grantees list. Placement on this list may prohibit you from obtaining contracts, loans, or grants from the CIWMB for a period up to three years.
7. Continuances are not favored. If you need a continuance, write or call immediately to the Office of Administrative Hearings, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231, (916) 263-0550. That agency has control of continuances. Requests without good cause will be denied.