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8 STATE OF CALIFORNIA  
9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 IN THE MATTER OF:  
12 LETICIA ZALDIVAR AKA LETICIA HOLGUIN  
13 DBA B & M TIRES;  
14 TPID NO: 1562904-01  
15 RESPONDENT.

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

AGENCY NO. 2009-011103-ADC  
OAH NO. 2009-120785

17 INTRODUCTION

18 This Complaint for Penalty is issued by the California Department of Resources  
19 Recycling and Recovery (CALRECYCLE) former California Integrated Waste  
20 Management Board (CIWMB) to LETICIA ZALDIVAR AKA LETICIA HOLGUIN DBA  
21 B & M TIRES (RESPONDENT), a waste tire hauler whose mailing address is 12956  
22 Woodcock Avenue, Sylmar, California, seeking thirty-thousand, seven hundred dollars  
23 (\$30,700.00). CalRecycle succeeded to CIWMB's authority on January 1, 2010, pursuant  
24 to PRC section 40401(a)(1). Section 42962 of the Public Resources Code (PRC)  
25 authorizes CALRECYCLE to administratively impose penalties for violations of any  
26 provision of PRC section 42960 et seq. This complaint is so issued based on the  
27 following facts:  
28

1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has authority to inspect, permit, regulate and conduct  
3 enforcement actions against Waste Tire Facilities (WTF) within the State of California  
4 under Public Resources Code (PRC) section 42800, et seq., and attendant regulations  
5 contained in Title 14 of the California Code of Regulations (CCR).

6 2. RESPONDENT applied for and obtained from CALRECYCLE a 2009 Waste  
7 and Used Tire Hauler Registration, which is effective from January 22, 2009 through  
8 December 31, 2009, in accordance with PRC sections 42955 and 42956, and  
9 implementing regulations (2009 Registration).

10 3. RESPONDENT misrepresented information on the CALRECYCLE waste  
11 tire hauler application as follows:

- 12 a. RESPONDENT stated that four vehicles were registered with Department of  
13 Motor Vehicles to B&M Tires, when in fact the Department of Motor Vehicles  
14 records indicated that none of the vehicles were registered to B&M Tires. This  
15 misrepresentation was an intentional or negligent violation of a permit, rule,  
16 regulation, standard, or requirement and is therefore subject to penalties  
17 pursuant to PRC section 42962.
- 18 b. RESPONDENT represented to CALRECYCLE on the waste and used tire  
19 registration application that her name was LETICIA ZALDIVAR when in fact her  
20 name is LETICIA HOLGUIN. This misrepresentation was an intentional or  
21 negligent violation of a permit, rule, regulation, standard, or requirement and is  
22 therefore subject to penalties pursuant to PRC section 42962.
- 23 c. RESPONDENT represented to CALRECYCLE on the waste and used tire  
24 registration application that a vehicle with California license plate no. "9E02348"  
25 instead had a license plate number of "RO3346". This misrepresentation was  
26 an intentional or negligent violation of a permit, rule, regulation, standard, or  
27 requirement and is therefore subject to penalties pursuant to PRC section  
28

1 42962. As a result of this misrepresentation, CALRECYCLE issued a decal for  
2 this vehicle which was observed on August 20, 2009.

3 4. RESPONDENT used its 2009 Registration to collect waste or used tires  
4 from its customers, and then to illegally haul the tires to an unpermitted waste tire facility  
5 thereby creating or contributing in the creation of an unpermitted waste tire facility at  
6 11051 Pendleton Street, Sun Valley, California. LETICIA ZALDIVAR allowed trucks to  
7 transport waste or used tires onto the unpermitted facility in violation of PRC section  
8 42951(b). On July 1, 2009, LETICIA ZALDIVAR signed a lease for the storage of used  
9 tires and initialed the pages "LH". The lease provides that its purpose is the storage of  
10 used tires not to exceed 500 and truck parking.

11 a. On or about August 12, 2009, RESPONDENT LETICIA HOLGUIN stored  
12 over 500 waste or used tires in various vehicles, including license plate number  
13 8F35947, at 11051 Pendleton Street, in Sun Valley, California, creating an  
14 unpermitted minor waste tire facility in violation of PRC section 42834.

15 b. On or about December 4, 2009, RESPONDENT LETICIA HOLGUIN stored  
16 over 1,000 waste or used tires in various vehicles at 11051 Pendleton Street, Sun  
17 Valley, California, creating an unpermitted minor waste tire facility in violation of  
18 PRC section 42834.

19 5. On at least one occasion prior to August 12, 2009, RESPONDENT failed to  
20 submit Comprehensive Trip Log receipts (CTLs) to CALRECYCLE manifesting the used  
21 and waste tires hauled to 11051 Pendleton Street, Sun Valley, California, in violation of  
22 PRC section 42961.5.

23 6. On at least one occasion from August 12, 2009 through December 4, 2009,  
24 RESPONDENT failed to submit CTLs to CALRECYCLE manifesting the used and waste  
25 tires hauled to 11051 Pendleton Street, in Sun Valley, California, in violation of PRC  
26 section 42961.5.

27 7. On or about June 12, 2009 to June 20, 2009, RESPONDENT hauled 14  
28 loads of waste and/or used tires to Mitsubishi Cement Plant, located at 5808 State

1 Highway 18, Lucerne Valley, California 92313, using a vehicle with California license  
2 plate no. 9EO2438, that was not registered with CALRECYCLE. This is a violation of 14  
3 CCR section 18831, CALRECYCLE form 60, for failure to provide this vehicle information  
4 on the waste and used tire hauler application, a violation of 14 CCR section 18454(f), in  
5 that the registration card and/or decal issued to a specific vehicle shall not be used for  
6 any vehicle not listed by the registered hauler, and a violation of 14 CCR section 18456  
7 for failure to notify the Board of a necessary change in the waste and used tire hauler  
8 application.

9 8. In violation of PRC section 42961.5, RESPONDENT failed to submit CTLs  
10 to CALRECYCLE indicating that RESPONDENT hauled 14 loads of waste and/or used  
11 tires from June 12, 2009 to June 20, 2009, to Mitsubishi Cement Plant, located at 5808  
12 State Highway 18, Lucerne Valley, California 92313, using a vehicle with California  
13 license plate no. 9EO2438, that was not registered with CALRECYCLE, in violation of  
14 PRC section 42961.5.

15 9. On or about May 20, 2010, Ziba Atai, Tire Enforcement Agent for Los  
16 Angeles County observed a truck with license plate number, 8W05036, unloading trucks  
17 at 23870 Pine Street, Newhall, California, and counted approximately 600 waste or used  
18 tires on site. The truck was registered with CALRECYCLE to RESPONDENT. In phone  
19 call during the ensuing inspection, LETICIA ZALDIVAR indicated managerial status over  
20 the property by admitting "they" had only recently moved onto the property; thus  
21 RESPONDENT created an unpermitted minor waste tire facility by allowing the transport  
22 of waste or used tires onto the property in violation of PRC section 42834 and PRC  
23 section 42951(b).

24 10. RESPONDENT failed to submit CTLs to CALRECYCLE manifesting the  
25 used and waste tires hauled to 23870 Pine Street, Newhall, California, in violation of PRC  
26 section 42961.5.

### 27 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

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1 11. CALRECYCLE is requesting thirty-thousand seven hundred dollars  
2 (\$30,700.00) in waste tire hauler administrative penalties based on the above-mentioned  
3 facts and for the following violations:

- 4 a. RESPONDENT intentionally or negligently misrepresented information  
5 provided in its application for a waste and used tire hauler registration,  
6 pursuant to PRC section 42962.
- 7 b. RESPONDENT violated PRC sections 42951(b) and 42834 by transporting  
8 waste tires to a minor waste tire facility or by accepting waste tires at a minor  
9 waste tire facility when the operator had failed to obtain a minor waste tire  
10 facility permit.
- 11 c. RESONDENT created or operated or contributed to the creation and  
12 operation of an unpermitted waste tire facility in violation 14 CCR section  
13 18420(a).
- 14 d. RESPONDENT failed to manifest used and waste tires in violation of PRC  
15 section 42961.5.
- 16 e. RESPONDENT failed to notify CALRECYCLE of necessary changes in the  
17 waste and used tire hauler application in violation of 14 CCR 18456.3.

18  
19 **PENALTIES**

20 12. CALRECYCLE's authority to assess administrative penalties against  
21 RESPONDENTS as a waste tire hauler is set forth in PRC section 42962(c), which states:

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

Under this section, RESPONDENTS are subject to a separate administrative  
penalty of up to \$5,000.00, for each occasion upon which they have hauled waste tires

1 without a valid Waste Tire Hauler Registration. Furthermore, 14 CCR section 18464  
2 allows the imposition of penalties in accordance with that penalty table.

3 13. In setting an appropriate administrative penalty, CALRECYCLE has taken  
4 into consideration the nature, extent and gravity of the violations, and the complete  
5 disregard of applicable statute and regulation by RESPONDENTS. CALRECYCLE now  
6 requests that administrative penalty liability be assessed against RESPONDENT in the  
7 sum of thirty-thousand, seven hundred dollars (\$30,700.00).

### 8 HEARING RIGHTS

9 You were notified that pursuant to the provisions of section 42960 of the California  
10 Public Resources Code and Government Code section 11506, that you are entitled to a  
11 hearing to refute the allegations against you contained in this AMENDED  
12 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE  
13 PENALTIES. You requested a hearing in a timely fashion. A hearing is scheduled for  
14 June 28, 29 and 30, 2010, at the Office of Administrative Hearings, 320 West Fourth  
15 Street, Suite 630, Los Angeles, California 90013.

16  
17 Dated this 15th day of June, 2010.

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21 Heather L. Hunt  
22 Staff Counsel III  
23 Department of Resources  
24 Recycling and Recovery  
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