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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

IN THE MATTERS OF: DANIEL GOMEZ DBA COAST TIRE RECYCLING TPID NOS: 1552814 1598468 RESPONDENT.	SUPPLEMENTAL ADMINISTRATIVE DECISION FOR THE DENIAL OF THE WASTE AND USED TIRE HAULER REGISTRATION AND WASTE TIRE STORAGE PENALTIES PUBLIC RESOURCES CODE SECTION 42960 AGENCY NOS. 2009-000049-DEN 2009-011107-ADC OAH NO. 2009-121236 2010-041189

INTRODUCTION

The Department of Resources Recycling and Recovery (CalRecycle) served an Administrative Complaint for Waste Tire Storage Administrative Penalties and a Request for a Hearing form on DANIEL GOMEZ DBA COAST TIRE RECYCLING (RESPONDENT) for waste tire law violations relating to a site owned and operated by RESPONDENT on March 10, 2010, and a Statement of Issues for the Denial of Waste and Used Tire Hauler Registration for waste tire hauler law violations, on November 24, 2009. The two matters were subsequently consolidated. The consolidated hearing was

scheduled for September 7, 2010. The parties agreed to settle the matter in order to avoid the cost and uncertainty of litigation, and documented the terms of the settlement in a Stipulated For The Issuance of an Administrative Decision for the Denial of the Waste and Used Tire Hauler Registration and Waste Tire Storage Penalties (Stipulation) on September 22, 2010. The Administrative Decision for the Denial of the Waste and Used Tire Hauler Registration and Waste Tire Storage Penalties was signed by Mark Leary, Executive Director on September 22, 2010. On December 13, 2011, CalRecycle issued a Notice of Default, explaining reasons RESPONDENT was found in default of the terms of the Stipulation. CalRecycle received RESPONDENT's responsive Statement of Facts RE: Notice of Default, dated January 5, 2012.

FACTS IN SUPPORT OF DEFAULT OF STIPULATION

RESPONDENT failed to comply with the terms set forth in the Stipulation.

1. Paragraph 15 of the Stipulation states:

> RESPONDENT's Waste Tire Hauler Registration shall be suspended for a period of one (1) year, ten (10) months of which will be stayed for a period of two (2) years unless RESPONDENT defaults on the terms of this Stipulation. Two (2) months of the suspension shall be served during the time from October 1, 2010, through November 30, 2010.

2. Paragraph 19 of the Stipulation states:

> . . . RESPONDENT shall be deemed in default of this Stipulation if, between the date of signature of the Administrative Decision in this matter and two years from that date, RESPONDENT, or a business, corporation, partnership, or limited liability company operated or owned by RESPONDENT does any of the following: . . .
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> d) fails to obey any provision of the Waste Tire Hauler Registration Law set forth in PRC section 42950 et seq. and its attendant regulations;
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> e) fails to obey any provision of the Waste Tire Law set forth in PRC section 42800 et seq., and its attendant regulations. . . .

3. PRC sections 42824 and 42834 of the Waste Tire Laws prohibit any person from operating a major or minor waste tire facility without first obtaining a major or minor waste tire facility.

4. PRC section 42808(c) of the Waste Tire Laws requires any person who stores, stockpiles, or accumulates 500 or more waste tires to first apply for a minor waste tire facility.

5. PRC section 42808(b) of the Waste Tire Laws requires any person who stores, stockpiles, or accumulates 5,000 or more waste tires to first apply for a major waste tire facility permit.

6. PRC section 42951(b) of the Waste Tire Hauler Registration Laws requires a waste and used tire hauler to haul waste tires only to a facility that has been permitted, excluded, exempted, or otherwise authorized by CalRecycle, by statute, or by regulation, to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

7. RESPONDENT is responsible for the accumulation and storage of waste tires at a site located at 5156 Sterling Road, Bakersfield, California (the site).

8. At no time has RESPONDENT applied for or obtained either a minor or a major waste tire facility (WTF) permit for the site.

9. During an inspection of the site on or about July 15, 2011, and documented in Waste Tire Survey and Inspection Report (Inspection Report) number I1-1162901, Inspector Gabriel Rubio, inspector for the Kern County Environmental Health Services Department, observed approximately 1,670 waste tires onsite, in violation of PRC section 42834.

10. CalRecycle received Comprehensive Trip Log (CTL) Receipts for the time period between July 6, 2011, and July 14, 2011, documenting at least seven separate deliveries of waste tires to the site in amounts greater than 499 waste tires per load. In doing so, each load created or added to an unpermitted minor WTF, and resulted in RESPONDENT's accepting waste tires at an unpermitted site, in violation of PRC section 42834.

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11. In the same hauling instances described above in paragraph 10, RESPONDENT hauled waste tires to facility that was not permitted, excluded, exempted, or otherwise authorized by CalRecycle, by statute, or by regulation, to accept waste and used tires, RESPONDENT in violation of PRC section 42951(b), on each of those seven separate occasions. The details of those deliveries are listed below.

CTL Form Number	Load Date	Hauler Name	Del PTE	Facility Name
4148608-B	07/06/2011	Coast Tire Recycling	888	Coast Tire Recycling
4148609-C	07/07/2011	Coast Tire Recycling	1900	Coast Tire Recycling
4148700-B	07/11/2011	Coast Tire Recycling	1004	Coast Tire Recycling
4148700-A	07/11/2011	Coast Tire Recycling	635	Coast Tire Recycling
4148606-A	07/11/2011	Coast Tire Recycling	550	Coast Tire Recycling
4148699-A	07/12/2011	Coast Tire Recycling	933	Coast Tire Recycling)
4104810-B	07/14/2011	Coast Tire Recycling	1905	Coast Tire Recycling

12. During an inspection of D & M Tire Solutions located at 740 E 111th Place, Los Angeles, California, on or about October 4, 2011, Steven Dolan, inspector for CalRecycle, observed CTL Receipt number 4148688-C dated October 4, 2011, that documented a delivery of 1,000 waste tires by RESPONDENT to D & M Tire Solutions. At no time has D & M Tire Solutions applied for or obtained either a minor or a major WTF permit for that location. Therefore, RESPONDENT once again violated PRC section 42951(b) by hauling waste tires to a facility that was not permitted, excluded, exempted, or otherwise authorized by the CalRecycle, by statute, or by regulation, to accept waste and used tires.

Respondent's Statement of Facts RE: Notice of Default did not provide sufficient evidence to refute the existence of the violations of the Stipulation.

13. RESPONDENT claimed that the deliveries to the site from July 6, 2011, to July 14, 2011, were tires that remained in locked, transportable, licensed, semi-trailers while onsite. In this way, RESPONDENT appears to be claiming that the said waste tires

were being held in the collection process and should not count toward the total number of waste tires onsite, pursuant to 14 CCR section 17225.717. However, waste tires are only authorized to be in the collection process, and therefore, not be counted toward the 500 or more threshold for a waste tire facility permit, if they are stored at a site that is not a permitted waste tire facility or is not a "facility identified in Section 18420(a)." Section 18420(a) of Title 14 of the CCR, identifies waste tire facilities that are required to "acquire a waste tire facility permit," as well as facilities "storing fewer than 500 waste tires." Regardless of the amount of waste tires on the ground at the time the loads of waste tires were delivered, the waste tire facility at the site was either storing fewer than 500 waste tires or was required to acquire a waste tire facility permit. As such, any waste tires in locked, transportable, licensed, semi-trailers were prohibited from being in the collection process and were required to be counted as waste tires onsite toward the 500 or more total.

14. RESPONDENT claimed that he asked to see a copy of permits allowing waste tire storage at D & M Tire Solutions. However, RESPONDENT admits that he only viewed a copy of D & M Tire Solutions' Tire Program Identification Number (TPID) Certificate, and he did not actually verify that D & M Tire Solutions could lawfully accept more than 499 waste tires, by either calling CalRecycle or viewing an actual Waste Tire Facility Permit issued to D & M Tire Solutions.

LEGAL CONCLUSION

The Department of Resources Recycling and Recovery (CalRecycle) has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers within the State of California under Public Resources Code (PRC) sections 42960 and 42962. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

Respondent has violated the terms of the Stipulation as described above. The parties stipulated that failure to comply with the Stipulation is deemed a default of the

terms of the Stipulation and subjects the Respondent to the suspension of the Waste Tire Hauler Registration, a portion of which was stayed unless RESPONDENT defaulted on the terms of the Stipulation within two years of the date of the issuance of the Administrative Decision.

ORDER

GOOD CAUSE APPEARING THEREFORE, the following order is hereby made:

1. The Waste Tire Hauler Registration issued to DANIEL GOMEZ DBA COAST TIRE RECYCLING is suspended for the remaining period of ten (10) months.

(a) DANIEL GOMEZ DBA COAST TIRE RECYCLING shall surrender all decals and registration cards issued to COAST TIRE RECYCLING for each vehicle listed in the Waste Tire Hauler Registration Application dated October 18, 2011, within 15 days of the receipt of this Supplemental Decision.

2. Following the expiration of the 10-month suspension period, DANIEL GOMEZ, COAST TIRE RECYCLING, and DANIEL GOMEZ DBA COAST TIRE RECYCLING shall not haul more than nine tires at one time without first applying for and obtaining and Waste Tire Hauler Registration for the 2013 calendar year.

The DECISION shall become effective as of the date signed below:

Dated this 23 day of March, 2012.

MARK DE BIE
Deputy Director
DEPARTMENT OF RESOURCES,
RECYCLING AND RECOVERY
(CALRECYCLE)