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8
9 STATE OF CALIFORNIA
10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12
13 **E-Z TIRES**

14
15 **RESPONDENT**

16 **TPID NO.: 1663392-01**

11 **ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES**

14 **PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.**

16 **AGENCY NO: 2014-011169-ADC**

17
18 **INTRODUCTION**

19 The California Integrated Waste Management Board (CIWMB) is now the California
20 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
21 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
22 (PRC) section 40401(a)(1).

23 Pursuant to PRC section 42851(a), CALRECYCLE is authorized to issue an
24 administrative accusation to a person on whom civil liability may be imposed. This
25 Administrative Complaint For Waste Tire Hauler Administrative Penalties of *E-Z Tires*
26 (RESPONDENT) is so issued based on the following facts.

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1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has authority to regulate and conduct enforcement actions
3 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California
4 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
5 14 of the California Code of Regulations (CCR).

6 2. A "Used or Waste Tire Hauler" or "Hauler" is defined as, "any person engaged in
7 the transportation of used or waste tires, or tire casings, including haulers that the Department
8 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (Title
9 14 CCR section 18450(a)(37).)

10 3. A "Waste Tire Hauler Registration" is defined as, "the documents, including the
11 decal and registration form, issued by the Department [CALRECYCLE], which authorizes the
12 holder of the documents to legally haul waste or used tires within California for the period of
13 issuance." (14 CCR section 18450(40).)

14 4. PRC section 42952(a) states, in relevant part:

15 Except as provided in Section 42954, a person engaged in
16 transporting waste or used tires shall comply with all of the following
17 requirements:

18 (1) The person shall be registered as a waste and used tire hauler
19 with the department [CALRECYCLE].

20 5. Pursuant to PRC section 42953 "Any person who gives, contracts, or arranges
21 with another person to transport waste or used tires shall utilize only a person holding a valid
22 waste and used tire hauler registration from the board [CALRECYCLE], unless the hauler is
23 exempt as specified in Section 42954."

24 6. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste
25 tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,
26 requirement, or allows any violation or noncompliance with any permit, rule, regulation,
27 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,
28 transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

1 Pursuant to PRC section 42962(c):

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

7 Title 14 CCR section 18463, provides in relevant part:

8 Any waste tire generator, end-use facility, or waste tire hauler, or any party
9 or person who commits any of the following acts shall be liable for a civil
10 penalty:

- 11 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
12 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
generation, transportation or disposal of used or waste tires.
- 13 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
14 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
15 Public Resource [sic] Code relating to the generation, transportation or disposal
16 of used or waste tires...
- 17 (c) Any violation of, or noncompliance with any order issued by the Department
18 [CALRECYCLE] or by a hearing officer or a court relating to the generation,
transportation or disposal of used or waste tires.
- 19 (d) Any false statement, misrepresentation, or omission of a significant fact or other
20 required information in the application for a waste tire hauler registration,
21 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
Form, or in information regarding these matters subsequently reported to the
Department [CALRECYCLE].
- 22 (e) In addition to liability for a civil penalty, the Department [CALRECYCLE] may:
23 (1) File a claim against any registered waste tire hauler surety bond for activities
24 resulting from the illegal disposal of tires or injury.
25 (2) Deny, suspend, or revoke a waste tire hauler registration.

26 Furthermore, Title 14 CCR section 18464 allows CALRECYCLE to impose
27 administrative penalties in accordance with the penalty table therein.

28 11. Title 14 CCR section 18464 authorizes penalties for violation of PRC section
42953, including but not limited to: any person giving, contracting, or arranging with another

1 person to transport waste or used tires and fails to utilize a tire hauler holding a valid used or
2 waste hauler registration from the department [CALRECYCLE] unless the tire hauler is
3 exempted from registration requirements as specified in PRC section 42954, with penalties
4 ranging from \$500.00-\$1,000.00 for each first offense.

5 12. RESPONDENT committed one count of contracting with an unregistered hauler
6 who was not exempted from PRC section 42954, totaling a \$1,000.00 penalty.

7 13. As required by Title 14 CCR section 18465, in determining an appropriate
8 administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the
9 following factors:

- 10 (1) The nature, circumstances, extent, and gravity of the violation.
- 11 (2) Evidence that the violation was willful or negligent.
- 12 (3) The good or bad faith exhibited by the party.
- 13 (4) History of violation of the same or similar nature.
- 14 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
15 in remediating the violation.
- 16 (6) The extent that the party has mitigated or attempted to mitigate any damage
17 or injury caused by his or her violation.
- 18 (7) Evidence of any financial gain resulting from the violation.
- 19 (8) Such other matters as justice may require.

20 14. Accordingly, CALRECYCLE hereby requests that a waste tire hauler
21 administrative penalty be assessed against RESPONDENT in the sum of \$1,000.00.
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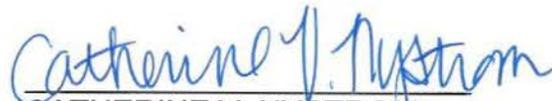
23 **RIGHT TO HEARING**

24 You are hereby notified that pursuant to the provisions of PRC section 42961.1 and
25 Government Code section 11505 that you are entitled to a hearing to refute the allegations
26 against you contained in this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
27 ADMINISTRATIVE PENALTIES. **If you wish to have a hearing on this matter, you must**
28 **complete and return the enclosed REQUEST FOR HEARING/ NOTICE OF DEFENSE to**
our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to

1 complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days
2 will be deemed a waiver of your right to a hearing.

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4 Pursuant to the above referenced Public Resources Code and Government Code
5 sections, discovery requests by any party must be made within 30 days after the service of this
6 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE
7 PENALTIES.

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9 Dated this 16 day of March, 2015.

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12 CATHERINE V. NYSTROM
13 Attorney for
14 Department of Resources Recycling and
15 Recovery (CALRECYCLE)
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