

ELLIOT BLOCK SBN 116999
Chief Counsel
HEATHER L. HUNT SBN 225861
Attorneys for Complainant
DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
P. O. Box 4025
Sacramento, CA 95812-4025
Telephone: (916) 341- 6068
Facsimile: (916) 319-7677

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of:

ROADEO LOGISTICS, INC.

TPID NO: 1750903-01

RESPONDENT

ADMINISTRATIVE DECISION
FOR THE DENIAL OF WASTE AND
USED TIRE HAULER REGISTRATION,
PUBLIC RESOURCES CODE SECTION
42960

AGENCY NO: 2014-000132-DEN

INTRODUCTION

The California Department of Resources Recycling and Recovery (CALRECYCLE) served a Statement of Issues for the Denial of Waste and Used Tire Hauler Registration (Statement of Issues) and a Request for Hearing on ROADEO LOGISTICS, INC (RESPONDENT), on March 10, 2014. To date, RESPONDENT has not filed a Request for Hearing. The matter shall be determined as a default pursuant to Government Code section 11520.

The California Integrated Waste Management Board (CIWMB) is now CALRECYCLE. CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (PRC) section 40401(a)(1). CALRECYCLE takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

FACTUAL FINDINGS

1. The Statement of Issues was executed by HEATHER L. HUNT, Attorney III, acting in her official capacity.

2. Pursuant to PRC section 42960, CALRECYCLE has the authority to deny a Waste Tire Hauler Registration for a period of up to three years if the holder of the registration commits more than three violations of, or fails to comply with any requirements of California's Waste Tire Hauler Registration Laws (PRC section 42950 et seq.) or California's Waste Tire Storage Laws (PRC section 42800 et seq.), or the regulations adopted pursuant to those provisions, within a one-year period.

3. 14 CCR section 18450(34) defines a Used or Waste Tire Hauler, or "Hauler," as any person engaged in the transportation of used or waste tires, or tire casings, including haulers that CALRECYCLE approved as exempt from registration pursuant to PRC section 42954.

4. Pursuant to 14 CCR section 18455, each Waste Tire Hauler Registration expires annually on January 1, and CALRECYCLE must receive a new application from any waste tire hauler who wishes to continue to operate as a waste tire hauler no later than 45 days prior to the January 1 expiration date.

5. PRC section 42951(b) requires that "A registered waste and used tire hauler shall only transport waste or used tires to a facility that is 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."

6. PRC section 42961.5(c)(2) requires that "Any waste and used tire hauler hauling waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof, shall complete the California Uniform Waste and Used Tire Manifest as required by [CALRECYCLE]. The waste and used tire hauler shall provide the manifest to the waste or used tire facility operator who receives the waste or used tires for handling, altering, storage, disposal, or any combination thereof. Each waste and used tire hauler shall submit to

1 [CALRECYCLE], on a quarterly schedule, a legible copy of each manifest. The copy submitted
2 to [CALRECYCLE] shall contain the signatures of the generator and the facility operator."

3 7. 14 CCR section 18460.2(b) requires that "The registered waste tire hauler shall
4 complete a new Manifest Form for each pick-up or delivery of any used or waste tires in
5 accordance with the directions on the form. The waste tire hauler shall not transport any used
6 or waste tires without having a copy of the Manifest Form in the vehicle transporting the used
7 or waste tires."

8 8. 14 CCR section 18459.2.1(a) requires that, "The waste tire hauler shall submit
9 the completed original CTL Form to the Department within ninety (90) days of the load
10 shipment. The Manifest Form shall be in the waste tire hauler's possession while transporting
11 used or waste tires and shall be shown upon demand to any representative of the Department
12"¹

13 9. 14 CCR section 18459.3(b) requires "The waste tire hauler shall retain a copy of
14 the completed Manifest Form at their place of business for a period of three (3) years. These
15 records shall be made available to any authorized representative of the Department upon
16 request."

17 10. 14 CCR section 18456.3(d) requires that "Every registered waste tire hauler shall
18 notify [CALRECYCLE] on a form CALRECYCLE 60 of any change in the business name,
19 business owner, facility address, mailing address, phone number, or vehicle ownership. Notice
20 shall be given no more than ten (10) days after the change."

21 11. RESPONDENT was granted a Used and Waste Tire Hauler Registration
22 (hereafter, "2013 Registration") by CALRECYCLE for the 2013 calendar year under the name
23 Roadeo Tires. The Registration was based on the Waste Tire Hauler Registration Application
24 (hereafter, "2013 Application") dated May 1, 2013, and submitted by owner Chris Nguyen, as
25 an individual, who provided a facility address of 2400 W. Rosecrans Avenue, Suite B, Gardena
26 California 90249. The 2013 Application listed only two vehicles for which decals were
27 requested: one vehicle with California license plate number 4P99985 with registered owner
28 _____

¹ CTL means, "the California Used and Waste Tire Manifest System form developed by the Department pursuant to [PRC] section 42961.5," pursuant to 14 CCR section 18450(a)(11). CTL is synonymous with Manifest Form.

1 NNGO, Inc., another with California vehicle license plate number 8W20005 with registered
2 owner NNGO, Inc. This 2013 Registration expired on January 1, 2014 pursuant to 14 CCR
3 section 18455.

4 12. RESPONDENT filed a Waste Tire Hauler Registration Application on January 10,
5 2014 under the name Roadeo Tires, naming the business owner as "Roadeo Logistics, Inc.,"
6 with Chris Nguyen as President. The address provided on this 2014 Application is 729 South
7 Knott Avenue, Anaheim California 92806. The 2014 Application was completed when
8 RESPONDENT submitted a surety bond on January 28, 2014 for Roadeo Logistics, Inc.

9 13. On or about May 31, 2013, Inspector Ziba Atai from the Los Angeles County
10 Department of Public Health, inspected RESPONDENT's facility located at 2400 W.
11 Rosecrans Avenue, Suite B, Gardena, CA as documented in Waste Tire Survey and
12 Inspection Report (hereafter, "Inspection Report") number I1-1179124. Inspector Atai issued a
13 Notice of Violation to RESPONDENT for failing to make manifests (a.k.a. Comprehensive Trip
14 Logs, or CTL's) available in violation of 14 CCR section 18459.3(b), and 18460.2. Inspector
15 Atai informed RESPONDENT of their responsibility as a registered waste tire hauler and
16 manifest requirements. A deadline date of July 1, 2013 was given to RESPONDENT to
17 comply.

18 14. On July 11, 2013, Inspector Atai conducted a routine inspection of American Tire
19 Depot located at 25150 Rye Canyon Road, Valencia, CA, as documented in Inspection Report
20 number I1-1179062. During this inspection, American Tire Depot made available to Inspector
21 Atai CTLs prepared by RESPONDENT that documented pickups from American Tire Depot by
22 RESPONDENT that were incorrectly filled out, in violation of 18460.2(d), as described below:

23 Comprehensive 24 Trip Log	Violation	Violation Date	Number of Tires	Location
25 4932892-B	26 Incorrect Hauler TPID ² and missing load type	June 20, 2013	343	American Tire Depot

27
28
² TPID is the acronym for Tire Program Identification Number pursuant to 14 CCR section 18450(a)(30).

4932895-A	Incorrect Hauler TPID and missing load type	June 21, 2013	180	American Tire Depot
4933044-A	Missing load type	July 4, 2013	385	American Tire Depot

15. On August 28, 2013, Inspector Atai conducted a re-inspection of RESPONDENT's facility located at 2400 W. Rosecrans Avenue, Suite B, Gardena California, as documented in Inspection Report number I1-11793969. RESPONDENT failed to make available CTL receipts for the dates from June 14, 2013 to July 30, 2013, in violation of 14 CCR section 18459.3 and 18462. Inspector Atai extended the previously given NOV compliance deadline to September 3, 2013.

16. On September 3, 2013, Inspector Atai and CALRECYCLE Inspector Steven Dolan conducted an inspection of SoCal Tires located at 1544 S. Figueroa Street, Gardena, California, as documented in Inspection Report number I1-1157038. During the inspection, the inspectors observed 4,709 waste tires, and, based on that number, determined SoCal Tires to be an unpermitted minor waste tire facility³. During the same inspection, Inspectors Dolan and Atai observed CTL number 4956805-C that documented a delivery of 315 waste tires to SoCal Tires that same day, September 3, 2013, in violation of PRC section 42951(b).

17. A subsequent review of CALRECYCLE's Waste Tire Management System (WTMS) database showed that CTL 4956805-C had not been submitted to CALRECYCLE within the 90-day time requirement, in violation of 18459.2.1. In addition, the WTMS review showed at least 2 CTLs, as described in the chart below, documenting deliveries of waste tires by RESPONDENT to SoCal Tires between August 10, 2013 and August 20, 2013 in an amount greater than 499. Since SoCal Tires was not in possession of a waste tire facility permit at any time between August 10, 2013 and August 20, 2013, the delivery of 500 or more

³ Pursuant to PRC section 42834 it is unlawful to direct or transport waste tires to a minor waste tire facility unless the operator has obtained a minor waste tire facility permit. SoCal Tires was a minor waste tire facility as that term is defined in PRC section 42808(c). At the time of this inspection, SoCal Tires was not in possession of a Minor Waste Tire Facility Permit.

1 waste tires caused SoCal Tires to be an unpermitted minor waste tire facility. The deliveries
2 were therefore made in violation of PRC section 42951(b).

3 Comprehensive Trip Log #	Violation	Delivery Date	Waste Tires Delivered	Facility Name
4 4956891-C	Transporting waste tires to an unauthorized location.	August 12, 2013	505	SoCal Tires
5 4956871-C	Transporting waste tires to an unauthorized location.	August 19, 2013	723	SoCal Tires
6 4956805-C	Transporting waste tires to an unauthorized location and Failure to submit a CTL to CALRECYCLE.	September 3, 2013	315	SoCal Tires

11
12 18. On September 11, 2013, Inspector Atai conducted another re-inspection of
13 RESPONDENT's facility located at 2400 W Rosecrans Avenue, Suite B, Gardena CA 90249,
14 as documented in Inspection Report number I1-1208524. During this inspection, Inspector Atai
15 discussed the vehicles listed in the 2013 Application. Mr. Nyugen, for RESPONDENT,
16 provided documentation to Inspector Atai showing that the ownership of vehicle with license
17 plate number 4P99985 had been transferred to Roadeo Tires. Mr. Nyugen also stated to
18 Inspector Atai that vehicle with license plate number 8W20005 had been sold. RESPONDENT
19 had failed to notify CALRECYCLE of the change in ownership for these two vehicles within ten
20 days, in violation of 14 CCR section 18456.3(d). In fact, RESPONDENT failed to notify
21 CALRECYCLE of these changes prior to submitting its 2014 Application.

22 19. On January 23, 2014, Inspector Atai performed an inspection of American Tire
23 Depot and observed CTL numbers 4864143-B and 4956840-B documenting pick-ups of more
24 than 9 waste tires from American Tire Depot by RESPONDENT. On January 23, 2014,
25 RESPONDENT was not in possession of a current Waste Tire Hauler Registration, so the two
26 pick-ups were in violation of PRC section 42951(a).

27 20. On January 28, 2014, Inspector Atai performed an inspection of an unpermitted
28 minor waste tire facility located at 11901 S. Alameda Street, Lynwood, California 90264, during

1 which she observed a truck owned and operated by RESPONDENT hauling waste and used
2 tires to the facility, as documented in Inspection Report number I1-1198282 and the Hauler
3 Observation Report for that location and date. Inspector Atai determined that the driver of the
4 vehicle was not in possession of a manifest, in violation of 14 CCR section 18460.2(b), and
5 that the vehicle was not registered by CALRECYCLE to haul tires by RESPONDENT. Upon
6 further investigation, Inspector Atai determined that the vehicle was instead registered by
7 CALRECYCLE to T&T American Recycle. By using a vehicle that was not registered to
8 RESPONDENT, RESPONDENT was in violation of 14 CCR section 18454(f). Moreover, on
9 January 28, 2014, RESPONDENT was not in possession of a valid Waste Tire Hauler
10 Registration, so the hauling of a load of more than 9 waste or used tires was in violation of
11 PRC section 42951(a).

12 21. A further review of CTLs in CALRECYCLE's WTMS database for loads of waste
13 and used tires hauled by RESPONDENT revealed 5 CTLs with errors, in violation of 14 CCR
14 section 18460.2(d), as described in the chart below:

15 Comprehensive Trip Log (CTL) #	Violation	Number of tires	Date
16 4706295-B	Incorrect Facility TPID number	380	July 23, 2013
17 4956875-B	Incorrect Facility TPID number	263	August 14, 2013
18 4956871-A	Load type not checked	366	August 17, 2013
19 4956802-C	Load type not checked	485	September 9, 2013
20 4933074-B	Incorrect Facility TPID number	338	September 10, 2013

21 22. On August 14, 2013, Inspector Valdes, Neighborhood Standards Specialist with
22 the City of Fresno's Code Enforcement Division observed truck with California license plate
23 number 4P99985, which was registered to haul tires by CALRECYCLE to RESPONDENT, with
24 approximately 300 waste or used tires parked at 4419 E. Belmont Ave, Fresno, CA. On August
25 22, 2013, Inspector Valdes observed the same truck with no waste or used tires. However, a
26
27
28

subsequent review of CALRECYCLE's WTMS database showed no deliveries of waste or used tires for this vehicle between August 14, 2013, and August 22, 2013. This failure of RESPONDENT to submit CTLs to CALRECYCLE within 90 days is in violation of 14 CCR section 18459.2.1.

23. Also on August 22, 2013, Investigator Holly observed the same vehicle (CA #4P99985) carrying approximately 400 waste or used tires entering a facility located at 2365 South Delno Avenue, Fresno, CA and later leaving the site empty. A review of CALRECYCLE's WTMS database showed no TPID number issued for this site. By delivering waste or used tires to a site not in possession of a TPID number, RESPONDENT violated 14 CCR sections 18460.2(b) and (g).

LEGAL CONCLUSIONS

24. RESPONDENT knowingly violated PRC section 42951(b) by delivering at least three loads of waste tires to an unpermitted or unauthorized location.

25. RESPONDENT knowingly violated PRC section 42961.5(c)(2) and 14 CCR section 18459.2.1 on at least two occasions by failing to submit CTLs to CALRECYCLE within 90 days of the date a load of used or waste tires was hauled by RESPONDENT.

26. RESPONDENT knowingly violated 14 CCR section 18456.3(d) on at least two occasions by failing to notify CALRECYCLE of vehicle ownership changes for two vehicles.

27. RESPONDENT knowingly violated 14 CCR section 18459.3(b) on at least two occasions by failing to have CTL records available for review at its place of business.

28. RESPONDENT knowingly violated 14 CCR section 18460.2(b) on at least one occasion by hauling used or waste tires without possession a CTL during the hauling.

29. RESPONDENT knowingly violated 14 CCR section 18460.2(d) on at least eight occasions by failing to completely or correctly fill out the CTL Form.

30. RESPONDENT knowingly violated 14 CCR PRC section 42951(a) on at least three occasions by transporting used or waste tires in an amount of nine or more without possession a valid Waste and Used Tire Hauler Registration.

31. No evidence of mitigation, extenuation or rehabilitation is offered.

ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Government Code section 11520 is granted.

THE FOLLOWING ORDER is hereby made:

RESPONDENT, ROADEO LOGISTICS, INC., is DENIED their Waste Tire Hauler Registration for three years pursuant to PRC section 42960 based on the above-mentioned facts.

RESPONDENT'S RIGHT TO FILE WRITTEN MOTION


Pursuant to Government Code section 11520(c), RESPONDENT has a right to serve CALRECYCLE with a written motion requesting that the decision be vacated and stating the grounds relied on:

Within seven days after service on the respondent of a decision based on the respondent's default, the respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:

- (1) Failure of the person to receive notice served pursuant to Section 11505.
 - (2) Mistake, inadvertence, surprise, or excusable neglect.
- (Gov't Code § 11520(c).)

This DECISION shall become effective on the date signed below.

Dated this 29 day of April 2014.



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