

1 BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
2 STATE OF CALIFORNIA
3

4 In the Matter of:) OAH No. N2000080256
5 THOMAS R. FRIZZIE, OPERATOR) AGENCY NO. 2000-58AC
6 D.B.A. – FRANK’S TIRE SERVICE) WTF No. 07-TI-0151
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13 **ADMINISTRATIVE DECISION PURSUANT TO STIPULATION**

14 Pursuant to that certain "Stipulation for Issuance of Administrative Decision" dated
15 November 16, 2000, entered into by and between Complainant CALIFORNIA INTEGRATED
16 WASTE MANAGEMENT BOARD (the "CIWMB") and Respondent THOMAS R. FRIZZIE,
17 and good cause appearing therefore, the following Stipulated Factual Findings and Conclusions
18 of Law are made, and the following Stipulated Order is issued:

19 **STIPULATED FACTUAL FINDINGS**

- 20 1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement
21 actions against Waste Tire Facilities (WTFs) within the State of California under PRC section
22 42800 et seq. and attendant regulations contained in Title 14 of the California Code of
23 Regulations (CCR).
- 24 2. THOMAS R. FRIZZIE, OPERATOR of that certain business located at 2800
25 Goodrick Avenue, Richmond, California is responsible for the waste tires being stored at that
26 site. This site is not a permitted WTF.
- 27 3. This facility is storing in excess of 9,000 waste tires on site, and is in violation of
28 Section 17353 – Vector Control, and Section 17354 – Waste Tire Storage.

1 4. On November 18, 1998, Keith Cambridge and Amalia Fernandez of the CIWMB
2 conducted a waste tire facility inspection of the site and documented violations of Title 14 CCR
3 sections 17351 - Fire Prevention Measure, 17353 - Vector Control Measure, 17354 - Waste Tire
4 Storage Standards, and 18423 - Filing of Waste Fire Facility Application.

5 5. A "Letter of Violation" dated November 30, 1998, was addressed and posted by
6 U.S. Mail by Keith E. Cambridge, CIWMB to THOMAS R. FRIZZIE, OPERATOR of
7 FRANK'S TIRE SERVICE requesting that a Corrective Action Plan (Plan) be submitted to the
8 CIWMB by December 31, 1998. This letter states that the site is violating Title 14 CCR Sections
9 17351, 17353, 17354, and 18423. The Inspection Report accompanying this letter further
10 documents that the operator is storing more than 5,000 waste tires on site.

11 6. A letter dated December 31, 1998 was sent by THOMAS FRIZZIE to Mr.
12 Cambridge of the CIWMB informing Mr. Cambridge that he felt the violations were not justified
13 and that he had sent an application to the CIWMB two years prior to that date and was still
14 waiting for a WTF Permit

15 7. A letter dated February 16, 1999 was addressed and posted by U.S. Mail by Keith
16 E. Cambridge, CIWMB to THOMAS FRIZZIE informing him that the CIWMB had no permit
17 issued for his site and if he still wished he could reapply for a WTF Permit by March 30, 1999.
18 A WTF Permit application was sent with this letter. No WTF Permit application was received.

19 8. Clean Up & Abatement Order No. 99-61 dated May 20, 1999, was issued by
20 CIWMB to THOMAS R. FRIZZIE, OPERATOR of FRANK'S TIRE SERVICE requesting that
21 Mr. FRIZZIE either obtain a WTF permit or remove all waste tires from his location by July 30,
22 1999. Copies of destination receipts and Waste Tire Manifests were to be submitted to the
23 CIWMB on or before August 7, 1999. No WTF Permit application was received at the CIWMB.

24 9. A letter dated April 20, 2000 was addressed and posted by U.S. Mail by Keith E.
25 Cambridge, CIWMB to THOMAS FRIZZIE informing him that the CIWMB still had not
26 received a complete WTF permit application for his site and if he still wished to operate as a
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1 WTF he would need to submit a complete WTF Permit application by May 15, 2000. No
2 application was submitted.

3 10. On June 21, 2000, Keith Cambridge and Cody Begley of the CIWMB conducted
4 a site visit of this location and determined that more than 11,000 waste tires were now located on
5 site.

6 **STIPULATED CONCLUSIONS OF LAW**

7 11. THOMAS R. FRIZZIE is in violation of Title 14 CCR Section 18420, which
8 requires that the operator of a WTF obtain a Permit from the CIWMB. Mr. FRIZZIE does not
9 have a Permit issued by the CIWMB.

10 12. THOMAS R. FRIZZIE is in violation of Title 14, CCR Section 17353 -- Vector
11 Control Measures, which lists requirements for the prevention of breeding and harborage of
12 mosquitoes, rodents and other vectors at a WTF. Mr. FRIZZIE has not complied with these
13 requirements.

14 13. THOMAS R. FRIZZIE is in violation of Title 14 CCR Section 17354 -- Storage
15 of Waste Tires, which lists the requirements for the safe storage of waste tires at a WTF. Mr.
16 FRIZZIE has not complied with these requirements.

17 14. THOMAS R. FRIZZIE is in violation of Clean Up & Abatement Order No. 99-
18 61, issued to him by the CIWMB on May 20, 1999. Clean Up & Abatement Order No. 99-61
19 directed Mr. FRIZZIE to remove all waste tires by July 30, 1999. Copies of destination receipts
20 and Waste Tire Manifests were to be submitted to the CIWMB on or before August 7, 1999.
21 THOMAS R. FRIZZIE has not complied with these requirements.

22 15. THOMAS R. FRIZZIE is in violation of PRC section 42845 which requires any
23 person, upon order of the CIWMB, to clean up, abate or otherwise take remedial action at a
24 WTF. THOMAS R. FRIZZIE has been ordered by the CIWMB, by Clean Up & Abatement
25 Order No. 99-61 to take specific remedial action at FRANK'S TIRE SERVICE but has not
26 complied with this requirement.
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1 16. THOMAS R. FRIZZIE is liable for civil penalties as set forth in Public Resources
2 Code section 42850 (b). Under this section, liability may be imposed in an administrative action.
3 Pursuant to Public Resources Code section 42846.5, the imposition of penalties herein may form
4 the basis for a subsequent Board order permitting the Board or its contractors access to the
5 property mentioned herein to perform cleanup, abatement or remedial work under section 42846.

6 17. The CIWMB's authority to assess civil penalties against THOMAS R. FRIZZIE,
7 OPERATOR, is set forth in PRC section 42850.1(b)(1), which states:

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9 "Any person who intentionally violates any provision of this chapter, or any permit, rule,
10 regulation, standard, or requirement issued or adopted pursuant to this chapter is liable
11 for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation of a
12 separate provision or, for continuing violations, for each day that violation continues."

13 Under this section, THOMAS R. FRIZZIE, as operator, is subject to a separate civil penalty of
14 up to \$10,000 for each day FRANK'S TIRE SERVICE is in violation of each requirement listed
15 above.

16 18. In setting an appropriate civil penalty, the CIWMB has taken into consideration
17 the nature, extent and gravity of the violations, and the complete disregard of applicable statute
18 and regulation on THOMAS R. FRIZZIE's behalf.

19 **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**
20 **AND STIPULATED CONCLUSIONS OF LAW**

21 Pursuant to the Stipulated Factual Findings and Stipulated Conclusions of Law, and good
22 cause appearing therefore, the following Administrative Decision is hereby issued in this
23 proceeding:

24 Respondent THOMAS R. FRIZZIE shall pay a monetary penalty of Twenty-One
25 Thousand, Two Hundred and Seventy-Five Dollars (\$21,275.00) to the California Integrated
26 Waste Management Board. Respondent THOMAS R. FRIZZIE shall pay interest at the legal

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1 rate, plus reasonable attorney's fees and other costs of collection, commencing on the date the
2 CIWMB converts this Decision into a Judgment.

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4 Dated: December 4, 2000

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NANCY RASMUSSEN
8 Administrative Law Judge
9 Office of Administrative Hearings
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