

1 BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

2 STATE OF CALIFORNIA

3
4 In the Matter of:) OAH No. N2000090169
5 C. HAMMOND CONSTRUCTION, INC., a) AGENCY NO. 2000-57AC
6 California Corporation, PROPERTY OWNER) WTF No. 07-TI-0903
7)
8 RE: MCCOSKER WASTE TIRE SITE)
9)
10)
11)
12)

13 **ADMINISTRATIVE DECISION PURSUANT TO STIPULATION**

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

20 **STIPULATED FACTUAL FINDINGS**

- 21 1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement
22 actions against Waste Tire Facilities (WTFs) within the State of California under PRC section
23 42800 et seq. and attendant regulations contained in Title 14 of the California Code of
24 Regulations (CCR).
- 25 2. C. HAMMOND CONSTRUCTION, INC., a California Corporation, Property
26 Owner, was responsible for the waste tires which had been stored at 716 West Gertrude Avenue
27 (APN# 408-160-036), Richmond, California. During the period waste tires were on site, the site
28 was not a permitted WTF.

1 3. On November 18, 1998, Keith Cambridge and Amalia Fernandez of the CIWMB
2 conducted a waste tire facility inspection of the MCCOSKER WASTE TIRE SITE and
3 documented violations of Title 14 CCR sections 17351 - Fire Prevention Measure, 17352 –
4 Facility Access and Site Security, 17353 - Vector Control Measure, 17354 - Waste Tire Storage
5 Standards, and 18423 - Filing of Waste Fire Facility Application. (Note: Access to the rear of
6 the property was restricted and the inspectors could only verify that approximately 4,000 waste
7 tires were on site from the front gate)

8 4. A "Letter of Violation" dated November 30, 1998, was addressed and posted by
9 U.S. Mail by Keith E. Cambridge, CIWMB to Marian McCosker, Property Owner of the
10 MCCOSKER WASTE TIRE SITE requesting that a Corrective Action Plan (Plan) be submitted
11 to the CIWMB by December 31, 1998. This letter states that the site is violating Title 14 CCR
12 Sections 17351, 17352, 17353, 17354, and 18423. The Inspection Report accompanying this
13 letter further documents that the site owner is storing more than 4,000 waste tires on site.
14

15 5. A letter dated December 3, 1998 was sent by Ms. McCosker and received at the
16 CIWMB informing Mr. Cambridge that the subject property was being sold to CHRIS
17 HAMMOND, PRESIDENT OF C. HAMMOND CONSTRUCTION, INC.

18 6. A "Letter of Violation" dated March 5, 1999, was addressed and posted by U.S.
19 Mail by Keith E. Cambridge, CIWMB to CHRIS HAMMMOND, PRESIDENT OF C.
20 HAMMOND CONSTRUCTION, INC., who was now representing himself as the new Property
21 Owner of the MCCOSKER WASTE TIRE SITE. In this "Letter of Violation", a Corrective
22 Action Plan (Plan) was being requested for submittal to the CIWMB by April 15, 1999.

23 7. On August 10, 1999, Keith Cambridge and Cody Begley of the CIWMB
24 conducted a site visit of this location and determined that more than 50,000 waste tires were
25 located on site (Note: the increase in the quantity of waste tires was due to the fact that the
26 inspectors were finally able to gain access to the rear of the site where all the tires had been
27 collected).
28

1 8. Clean Up & Abatement Order No. 99-98 dated September 16, 1999, was issued
2 by CIWMB to C. HAMMOND CONSTRUCTION, INC., CHRIS HAMMOND, PRESIDENT,
3 requesting that C. HAMMOND CONSTRUCTION, INC. remove all waste tires from the
4 location by December 31, 1999. Copies of destination receipts and Waste Tire Manifests were to
5 be submitted to the CIWMB on or before January 7, 2000.

6 9. A letter dated January 3, 2000 was mailed by Clifford Hammond, Project
7 Operations, of C. HAMMOND CONSTRUCTION, INC. to the CIWMB requesting a time
8 extension of Clean Up & Abatement Order No. 99-98. C. HAMMOND CONSTRUCTION,
9 INC. requested an extension until June 31, 2000 (inaccurate date) be granted for the removal of
10 the remaining tires. Accompanied in this letter were manifests showing the removal of
11 approximately 26,000 tires from the site.

12 10. An Extension Letter dated January 11, 2000 was addressed and posted by U.S.
13 Mail by Byron Fitzgerald, Acting Deputy Director of the CIWMB's Special Waste Division to
14 CHRIS HAMMOND, PRESIDENT OF C. HAMMOND CONSTRUCTION, INC. In this letter,
15 an Extension to Clean Up & Abatement Order No 99-98 was granted until June 30, 2000.
16

17 11. On June 21, 2000, Keith Cambridge and Cody Begley of the CIWMB conducted
18 a site visit of this location and determined that more than 25,000 waste tires were still located on
19 site. C. HAMMOND CONSTRUCTION, INC. subsequently advised that the site was fully
20 remediated on August 31, 2000. On September 7, 2000, Keith Cambridge of the CIWMB
21 conducted a site visit of this location and affirmed that the site was now fully remediated.
22

23 **STIPULATED CONCLUSIONS OF LAW**

24 12. C. HAMMOND CONSTRUCTION, INC., operator and property owner violated
25 Title 14 CCR Section 18420, which requires that the operator of a WTF obtain a Permit from the
26 CIWMB. During the period waste tires were on site, C. HAMMOND CONSTRUCTION, INC.
27 did not have a Permit issued by the CIWMB.
28

1 13. C. HAMMOND CONSTRUCTION, INC. violated Title 14 CCR Section 17351 -
2 - Fire Prevention Measures, which list specific equipment and water supply that must be
3 available at a WTF. During the period waste tires were on site, C. HAMMOND
4 CONSTRUCTION, INC. did not have the equipment or water supply on site required by this
5 section.

6 14. C. HAMMOND CONSTRUCTION, INC. violated Title 14, CCR Section 17353 -
7 - Vector Control Measures, which lists requirements for the prevention of breeding and
8 harborage of mosquitoes, rodents and other vectors at a WTF. During the period waste tires were
9 on site, C. HAMMOND CONSTRUCTION, INC. had not complied with these requirements.
10

11 15. C. HAMMOND CONSTRUCTION, INC. violated Title 14 CCR Section 17354 -
12 - Storage of Waste Tires, which lists the requirements for the safe storage of waste tires at a
13 WTF. During the period waste tires were on site, C. HAMMOND CONSTRUCTION, INC. had
14 not complied with these requirements.

15 16. C. HAMMOND CONSTRUCTION, INC. violated Clean Up & Abatement Order
16 No. 99-98, issued to him by the CIWMB on September 16, 1999. Clean Up & Abatement Order
17 No. 99-98 directed C. HAMMOND CONSTRUCTION, INC. to remove all waste tires by
18 December 31, 1999. Copies of destination receipts and Waste Tire Manifests were to be
19 submitted to the CIWMB on or before January 7, 2000. An Extension Letter to this Order, dated
20 January 11, 2000, allowed until June 30, 2000 for the complete removal of waste tires from the
21 site. C. HAMMOND CONSTRUCTION, INC. did not comply with these requirements.

22 17. HAMMOND CONSTRUCTION, INC. is liable for civil penalties as set forth in
23 Public Resources Code section 42850 (b). Under this section, liability may be imposed in an
24 administrative action.

25 18. The CIWMB's authority to assess civil penalties against C. HAMMOND
26 CONSTRUCTION, INC., Property Owner, is set forth in PRC section 42850, which states:

27 "Any person who negligently violates any provision of this chapter, or any permit,
28 rule, regulation, standard, or requirement issued or adopted pursuant to this
 chapter is liable for a civil penalty of not less than five hundred dollars (\$500) or

1 more than five thousand dollars (\$5,000) for each violation of a separate provision
2 or, for continuing violations, for each day that violation continues."

3 Under this section, C. HAMMOND CONSTRUCTION, INC., as Operator and Property Owner
4 of MCCOSKER WASTE TIRE SITE TIRE, is subject to a separate civil penalty of not less than
5 \$500 or more than \$5,000.00 for each day the MCCOSKER WASTE TIRE SITE TIRE is in
6 violation of each requirement listed above.

7
8 19. In setting an appropriate civil penalty, the CIWMB has taken into consideration
9 the nature, extent and gravity of the violations, and the complete disregard of applicable statute
10 and regulation on C. HAMMOND CONSTRUCTION, INC.'s behalf.

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12 **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**
13 **AND STIPULATED CONCLUSIONS OF LAW**

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

17 Respondent C. HAMMOND CONSTRUCTION, INC. shall pay a monetary penalty of
18 Forty-Nine Thousand, Three Hundred and Sixty Dollars (\$49,360.00) to the California Integrated
19 Waste Management Board. Respondent C. HAMMOND CONSTRUCTION, INC. shall pay
20 interest at the legal rate, plus reasonable attorney's fees and other costs of collection,
21 commencing on the date the CIWMB converts this Decision into a Judgment.

22
23 Dated: January 5, 2001

24
25
26 _____
27 CHERYL TOMPKIN
28 Administrative Law Judge
Office of Administrative Hearings