

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In the Matter of the Accusation of:

SIXTO PORRAS, OWNER/OPERATOR
dba ECONOMY TIRE SERVICE,

Facility No. 50-TI-0129,

Respondent.

AC No. 2003-010609-ADH

OAH No. N2003100598

ADMINISTRATIVE DECISION BY STIPULATION

The matter came on regularly before Jaime René Román, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California, for issuance of an Administrative Decision by Stipulation (“Decision”).

Complainant was represented by Robert F. Conheim, Staff Counsel, California Integrated Waste Management Board.

Respondent Sixto Porras, Owner/Operator, dba Economy Tire Service (“respondent”) represented himself.

A Waiver executed by respondent, and a Stipulation for Issuance of Administrative Decision, executed by and between the parties, was received and the matter submitted on November 20, 2003.

FACTUAL FINDINGS

1. On October 15, 2003, complainant, solely in his official capacity, filed Administrative Complaint No. 2003-010609-ADH against respondent.
2. In November 2003, respondent executed a Waiver of Hearing.
3. On November 20, 2003, the parties submitted a Stipulation for Issuance of Administrative Decision.

LEGAL CONCLUSION

Cause exists to impose a penalty against respondent pursuant to Public Resources Code Section 42800, et seq.; and Title 14, California Code of Regulations Sections 17351, 17352, 17354, 18420(a), and 18422(i); and as set forth in Findings 1 – 3.

ORDER

Respondent Sixto Porras, Owner/Operator, dba Economy Tire Service, shall pay the California Integrated Waste Management Board (“the Board”) the sum of EIGHT THOUSAND DOLLARS (\$8,000) as a penalty; provided, however said penalty shall be stayed for three years from the effective date of this Decision on the following terms and conditions:

1. Commencing thirty days after the effective date of this Decision, respondent shall pay the sum of \$6,400 in monthly installments of \$500 commencing on the first day of each successive month for a period of twelve (12) months, with a final payment of \$400 on the first day of the thirteenth month, until paid. All payments shall be made to the California Integrated Waste Management Board, ATTN: Janice Kubit, P.O. Box 4025, Sacramento, California 95812; or to such other person and/or place as the California Integrated Waste Management Board (“CIWMB”) or its designee may from time to time designate in writing. If any payment by respondent is not received within five days of the due date, then respondent shall be deemed in default of the stipulation and Decision and the CIWMB or its designee may enforce the Decision. Payment in full of the \$6,400 shall constitute the full amount of the penalty in this action unless respondent defaults under the terms of this stipulation or Decision, in which case the penalty shall consist of \$8,000, awarded in this Decision, immediately due and payable, minus any amounts previously paid.
2. Respondent shall complete removal of all waste tires (whole and/or tire equivalents) in excess of the number of tires authorized for a used tire dealer from 1024 Crows Landing Road, Modesto, California (“the subject property”) by January 15, 2004. All tires removed from the subject property must be legally transported by a Registered Waste Tire Hauler to a CIWMB-approved facility. Copies of “CA Uniform Waste and Used Tire Manifests” and “CA Uniform Waste and Used Tire Trip Logs” (Forms CIWMB 647 and 648) must accompany each load and be submitted by January 31, 2004, to the CIWMB, ATTN: Stephen Posner, P.O. Box 4025, MS 5, Sacramento, California 95812. If respondent fails to properly remove all tires by January 15, 2004, and if the CIWMB or its designee elects to perform the balance of such cleanup, then respondent, who has certified ownership of the subject property and authorized approval therefore, shall permit access to the subject property for the purpose of removing the tires by

CIWMB staff, their designated contractors and representatives, and other affected State and local authorities. Such cleanup, if required to be performed by State or local personnel or their designee(s) shall be performed under the Waste Tire Stabilization and Abatement Program pursuant to Public Resources Code Sections 42800 – 42855.

3. Respondent shall not engage in hauling waste or used tires unless respondent obtains and maintains a valid registration as a Waste Tire Hauler Registration.
4. Respondent, upon presentation of proper credentials from CIWMB staff, an authorized agent of the CIWMB, Stanislaus County, or the California Highway Patrol, shall submit to inspections and investigations of vehicles, property or facilities owned or operated by respondent, to examine and copy waste tire registration documents, manifests and trip logs and to take photographs of vehicles and tires on such property or at such facilities.
5. Respondent shall not store more than 1500 waste tires in the conduct of a used tire dealer, so long as the tires are not stored for more than 90 days, and comply with the storage requirements of Title 14, California Code of Regulations, Sections 17350 – 17356 and 18420. All tires removed from the subject property or other property owned or operated by respondent must be legally transported by a Registered Waste Tire Hauler to a CIWMB-approved facility. Copies of “CA Uniform Waste and Used Tire Manifests” and “CA Uniform Waste and Used Tire Trip Logs” (Forms CIWMB 647 and 648) must be maintained by respondent for three years.
6. Respondent, should he default under the terms of the stipulation or Decision, shall receive notice from CIWMB by a letter, via Certified Mail, notifying him of the same. Said letter shall apprise respondent of such provision(s) of the stipulation or Decision of which he is in default, and will attach a copy of the Inspection Report or other report (or document) documenting the violation(s) at issue. Said letter will further relate that the CIWMB shall immediately, without providing respondent a hearing or other opportunity to contest CIWMB’s action, enforce the administrative decision by converting the Decision into a civil judgment and commence any and all enforcement of Judgment proceedings the CIWMB deems appropriate.

Dated: _____

JAIME RENÉ ROMÁN
Administrative Law Judge

Office of Administrative Hearings