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8 STATE OF CALIFORNIA

9 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

10
11 IN THE MATTER OF:

12
13 TRI-C TIRE RECYCLING, INC.; MARK
14 KORTE, OPERATOR
15 TPID NO: 1005559-02

ADMINISTRATIVE DECISION FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

AGENCY No. 2006-010946-ADC

16
17 RESPONDENTS.
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20 **PROCEDURAL HISTORY**

21 The parties to this action are the CALIFORNIA INTEGRATED WASTE
22 MANAGEMENT BOARD (CIWMB) and TRI-C TIRE RECYCLING, INC.; MARK KORTE,
23 OPERATOR (hereinafter "RESPONDENTS"), formerly located at 8588 Thys Court,
24 Sacramento, CA 95828 and currently located at 1500 East Kentucky Avenue,
25 Woodland, CA 95695.

26 The CIWMB issued an Administrative Complaint dated December 27, 2006 for
27 waste tire hauler administrative penalties. The parties met on March 1, 2007, in an
28 attempt to resolve outstanding issues concerning RESPONDENTS' manifest system.

1 On May 2, 2007, the administrative Complaint was amended adding more allegations,
2 and requesting \$12,700 in administrative penalties. The parties again met on June 25,
3 2007, at a mandatory settlement conference at the Office of Administrative Hearings,
4 and attempted to resolve the issues raised in the Administrative Complaint and other
5 issues raised by RESPONDENTS. To avoid the uncertainties of litigation, a
6 STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE
7 HAULER PENALTIES (hereinafter "STIPULATION") was ultimately negotiated
8 representing a settlement of the alleged violations stated in the May 2, 2007, Amended
9 Administrative Complaint for Waste Tire Hauler Penalties.

10 The CIWMB hereby adopts the Stipulation. Pursuant to the Stipulation, and
11 good cause appearing therefore, the following Stipulated Factual Findings and
12 Conclusions of Law are made, and the following Order is issued:

13 **STIPULATED FACTUAL FINDINGS**

14 1. The CIWMB has authority to regulate and conduct enforcement actions
15 regarding Waste Tire Haulers within the State of California under PRC section 42950 et
16 seq. and attendant regulations contained in Title 14 of the California Code of
17 Regulations (CCR).

18 2. RESPONDENTS are responsible for completion of California Uniform
19 Waste and Used Tire Manifests ("manifests") as required by law.

20 3. From February 22, 2005 to April 20, 2007, RESPONDENTS have been
21 completing manifests via the Electronic Data Transfer (EDT) system pursuant to
22 CCR section 18459(a)(2) and 14 CCR section 18459.1.2.(a). In accordance with these
23 regulations, and with PRC section 42961.5, the information provided in EDT
24 transmissions must be equivalent to the required information in the manifest system.

25 4. In response to RESPONDENTS' failure to properly complete manifests or
26 provide accurate information in the EDT system as required by law, the CIWMB mailed
27 letters of violation to RESPONDENTS on January 13, 2004, May 21, 2004,
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1 June 9, 2004, and July 26, 2005. These letters of violation informed RESPONDENTS
2 of occurrences of improperly completed manifest forms or EDT transmissions, including
3 but not limited to, omission of requested information, such as load amount, load type,
4 signature, phone number, whether it was a pick-up or delivery, CIWMB used and waste
5 tire decal number, invalid TPID number, and failure to use a CIWMB Electronic Data
6 Transfer logo.

7 5. Between February 28, 2005, and December 22, 2005, there were at least
8 26 EDT invoices submitted by RESPONDENTS that omitted information required by
9 law, including EDT manifest number, Pick up and Delivery information, hauler's TPID
10 number, vehicle license plate, CIWMB decal number, driver's printed name, signature
11 and date, load amount, load type, business customer's name, signature and date.

12 6. On or about June 7, 2006, RESPONDENTS sold and unloaded 11
13 (eleven) used tires to Fuel Stop Mini Mart Services; and failed to manifest said used
14 tires.

15 7. RESPONDENTS inaccurately transmitted the following information to
16 CIWMB:

17 a) On or about October 13, 2006, January 30, 2007, and February 14,
18 2007, pickups by RESPONDENTS were represented as occurring at Yellow Cab
19 of Sacramento (TPID 1445069) when they actually occurred at Travel Centers of
20 American (TPID 1444676).

21 b) Between March 10, 2005 and February 16, 2007, pickups by
22 RESPONDENTS were represented as occurring at FA and Sons (TPID 1005244)
23 when they actually occurred at Xtreme Auto Care (TPID 1105448).

24 8. Between October 1, 2006, and December 31, 2006, RESPONDENTS
25 omitted decal numbers and/or license plate numbers on 109 manifest transmissions
26 from October 1, 2006 through December 31, 2006.

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1 **STIPULATED CONCLUSIONS OF LAW:** RESPONDENTS violated Public Resources
2 Code section 42961.5 and its implementing regulations in its actions stated in the
3 above-mentioned Stipulated Factual Findings.
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5 CIWMB is acting within its discretion in accordance with PRC section 42962(c)
6 and 14 CCR section 18464 in imposing a penalty of \$10,000 for these violations.

7 **ORDER**

8 The CIWMB approves of the terms of the Stipulation, and the following order is
9 hereby made:

- 10 a. RESPONDENTS shall pay ten thousand dollars (\$10,000) within 30 days of
11 the date of this Decision in accordance with the terms of the Stipulation.
- 12 b. RESPONDENTS shall produce manifests and supporting documents upon
13 request;
- 14 c. RESPONDENTS will comply with the manifesting laws at PRC section
15 42961.5 and its implementing regulations;
- 16 d. Staff shall clarify the meaning of the phrase "accounts proceeds" in its
17 October 14, 2005 UCC Financing Statement # 05-7045436832 on specific equipment
18 owned by RESPONDENT. This means that the CIWMB will provide a letter of
19 assurance or enter into an inter-creditor agreement with Respondent's Lender clarifying
20 the language of the lien as follows: that the CIWMB's security interest is limited to
21 proceeds from the sale of said equipment and does not extend to accounts receivables.
22 Attached hereto is the draft of the Letters agreed to by the parties.
- 23 e. Staff shall release \$12,000 in funds held in trust for the purposes of
24 financial assurance of appropriate closure of the Thys Court facility upon verification by
25 a CIWMB inspector that RESPONDENTS have made good faith efforts to clean up the
26 following waste tires and tire residue at the facility and on parcels adjacent to the
27 facility in accordance with its closure plan and as required by 14 CCR sections 18440
28 and 18441; or upon a showing that access to those sites has been denied.

1 Specifically, there are currently seven to ten waste tires located in the vacant
2 lot adjacent to the southeast corner of the Thys Court permitted facility. There are
3 also waste tire residues with tire wire and forklift tires on the east side of the building.
4 Given that none of the properties are currently owned or leased by RESPONDENTS,
5 the parties have agreed that RESPONDENTS will request access for the purpose of
6 cleanup by the appropriate property owners and/or lessors. If access with reasonable
7 conditions is granted, RESPONDENTS must perform the cleanup of the above-
8 mentioned wastes.

9 f. RESPONDENTS represent that they will submit a complete Application for
10 a major waste tire facility permit in the near future. Staff shall act expeditiously in its
11 review of the application, as required by 14 CCR 18423(b). The CIWMB agrees that the
12 stipulated facts and violations of law herein will not be used as grounds for denial of the
13 major waste tire facility permit. In addition, the CIWMB will issue its Decision concerning
14 the permit within 90 days of accepting a complete application unless there are
15 unresolved California Environmental Quality Act issues or other unforeseen issues
16 which complicate the review process. However, CIWMB will endeavor to process the
17 application sooner if feasible.

18 This DECISION shall become effective August 27, 2007.

19 Dated this 27 day of August, 2007.

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MARGO REID BROWN
Chair
CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD