

1 MARIE W. CARTER, CHIEF COUNSEL, SBN# 070403  
2 WENDY BRECKON, STAFF COUNSEL, SBN# 182952  
3 Attorneys for Petitioner  
4 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
5 1001 I Street, 23<sup>rd</sup> Floor  
6 P. O. Box 4025  
7 Sacramento, CA 95812-4025  
8 Telephone: (916) 341-6068

9  
10 STATE OF CALIFORNIA  
11 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

12 In the Matter of: ) ADMINISTRATIVE DECISION FOR  
13 BERNARDO BELTRAN, OWNER & ) ADMINISTRATIVE PENALTIES  
14 OPERATOR ) ORDER SETTING LIABILITY  
15 d/b/a: B & J TIRES & WHEELS, INC. ) Agency No: 2005-010918-AC  
16 a/k/a: B & J TIRES  
17 RESPONDENT.

18 The California Integrated Waste Management Board ("CIWMB") served an  
19 Administrative Complaint and Request for Hearing form on BERNARDO BELTRAN,  
20 (RESPONDENT), on September 15, 2005. RESPONDENT failed to file a Request for  
21 Hearing within fifteen days of service of the Administrative Complaint pursuant to  
22 Government Code 11505 (a). The matter shall be determined as a default pursuant to  
23 Government Code section 11520. The CIWMB takes action against RESPONDENT  
24 based upon evidence and affidavits that may be used without any notice to  
25 RESPONDENT.

26 **FACTUAL FINDINGS**

27 1. The Administrative Complaint was executed by WENDY BRECKON, Staff  
28 Counsel, CIWMB, acting in her official capacity.

1           2.       BERNARDO BELTRAN, Owner and Operator of B & J TIRES & WHEELS,  
2 INC. d/b/a B & J TIRES, is responsible for the transportation of waste tires by a person not  
3 holding a valid Waste Tire Hauler Registration from the CIWMB.

4           3.       On January 2, 1996, RESPONDENT first became registered as a Waste Tire  
5 Hauler with the CIWMB. The hauler registration number issued to him was 177, and  
6 effective July 1, 2003 became TPID No. 1000902. RESPONDENT has renewed annually  
7 since the initial registration date with the exception of 1997 and 1998.

8           4.       In October 2004, the CIWMB Waste Tire Hauler Registration and Manifest  
9 Program sent the 2005 renewal notification to RESPONDENT to notify him that he needed  
10 to renew his registration for the 2005 calendar year.

11          5.       Pursuant to 14 California Code of Regulations (CCR) 18455(b), all waste tire  
12 hauler registrations expire annually on January 1<sup>st</sup>.

13          6.       On January 14, 2005, the CIWMB Waste Tire Hauler Registration and  
14 Manifest Program cancelled RESPONDENT for failing to renew the waste tire hauler  
15 registration for the 2005 calendar year. On January 14, 2005, a cancellation letter was  
16 sent to RESPONDENT at his mailing address of 870 Commercial Street, San Jose, CA  
17 95112 advising him of this cancellation.

18          7.       On February 15, 2005, staff of the CIWMB Waste Tire Hauler Registration  
19 and Manifest Program contacted RESPONDENT to inform him not to haul waste tires until  
20 such time as he renewed his application for waste tire hauler registration for the 2005  
21 calendar year. To date, the CIWMB has not received a valid Waste Tire Hauler application  
22 from RESPONDENT to re-activate the CIWMB Waste Tire Hauler Registration.

23          8.       RESPONDENT continued to haul waste and used tires on twenty-four (24)  
24 occasions after the waste tire hauler registration expired.

25          9.       RESPONDENT falsely represented that B & J Tires was currently registered  
26 with the CIWMB by using false decal numbers indicating a 2005 decal number in the  
27 hauler portion of the manifest. Decals 04-02095 and 04-2098 were assigned to B & J  
28 Tires in 2004. B & J Tires used decal number 05-02095 and 05-02098 to represent that

1 he was registered in 2005, when in fact he was not registered.

2 **LEGAL CONCLUSIONS**

3 10. BERNARDO BELTRAN, Owner and Operator of B & J TIRES & WHEELS,  
4 INC. d/b/a B & J TIRES is in violation of Public Resources Code (PRC), section 42951,  
5 which makes it unlawful, on or after January 1, 1995, to engage in the transportation of  
6 nine (9) or more waste tires unless holding a valid Waste Tire Hauler Registration, unless  
7 exempted as specified in PRC section 42954.

8 11. The CIWMB's authority to assess administrative penalties against  
9 BERNARDO BELTRAN d/b/a B & J TIRES & WHEELS, INC. as a waste tire hauler, is set  
10 forth in PRC section 42962 (c) and in Title 14 of the California Code of Regulations,  
11 section 18464.

12 12. Pursuant to 14 California Code of Regulations section 18465, the requested  
13 penalty of \$59,500.00 (Fifty-nine thousand, five hundred dollars) is within CIWMB's  
14 discretion.

15 13. No evidence of mitigation, extenuation or rehabilitation is offered.

16 **ORDER**

17 Good cause appearing, Complainant's motion to take action in accordance with the  
18 provisions of Public Resources Code 42851, subdivision (b) and Government Code  
19 Section 11520, subdivision (a) is granted.

20 THE FOLLOWING ORDER is hereby made:

21 RESPONDENT, BERNARDO BELTRAN, is ordered to pay an administrative  
22 penalty of \$59,500.00 (Fifty-nine thousand, five hundred dollars) to the California  
23 Integrated Waste Management Board within 30 (thirty) days of the date of this decision.

24 This DECISION shall become effective 10/25/05.

25 Dated: 10/25/05

26   
27 ROSARIO MARIN  
28 Chair  
California Integrated Waste Management Board