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STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF:

JUAN RAMIREZ DBA JJ SAHUAYO TIRES;

AKA J & J SAHUAYO TIRES

TPID NO: 1351452-01

RESPONDENTS.

ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO. 2008-011084-ADC

On January 16, 2009, the California Integrated Waste Management Board ("CIWMB") served an Administrative Complaint and Request for Hearing form on JUAN RAMIREZ DBA JJ SAHUAYO TIRES; AKA J & J SAHUAYO TIRES, an unregistered waste and used tire hauler ("RESPONDENT"). CIWMB did not receive a Request for Hearing. The matter shall be determined as a default pursuant to 14 California Code of Regulations (CCR) section 18466 and Government Code section 11520. CIWMB takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

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FACTUAL FINDINGS

1. The Administrative Complaint was executed by WENDY BRECKON, Senior Staff Counsel, CWIMB, acting in her official capacity.
2. RESPONDENT is responsible for the transportation of waste tires by a person not holding a valid waste tire hauler registration from the CIWMB.
3. The Waste and Used Tire Hauler Registration expires annually on January 1, pursuant to 14 CCR 18455.

WASTE TIRE HAULER REGISTRATION

4. RESPONDENT applied for and obtained from CIWMB, a Waste and Used Tire Hauler Registration (hauler registration) for the years 2005, 2006, 2007, and 2008 in accordance with PRC sections 42955 and implementing regulations.
5. Prior Unregistered Hauling: RESPONDENT failed to apply for the 2007 hauler registration prior to January 1, 2007, and in fact, RESPONDENT did not apply for the 2007 hauler registration until March 15, 2007.
6. Recent Unregistered Hauling: RESPONDENT failed to apply for the 2008 hauler registration prior to January 1, 2008. In fact, RESPONDENT did not apply for the 2008 hauler registration until April 2008. As a result, CIWMB issued a cancellation letter on January 3, 2008 to RESPONDENT informing him that he did not have a current registration and could not haul 10 or more waste or used tires. Despite being an unregistered hauler, RESPONDENT continued to haul waste or used tires in violation of Public Resources Code section 42951.
7. RESPONDENT hauled more than 10 waste tires as an unregistered hauler on the following twelve occasions in violation of PRC section 42951 as follows:

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Transaction Date	CTL	Receipts A, B, C	Passenger Tire Equivalents
01/02/2008	3246773	C	60
01/02/2008	3557162	A	130
01/10/2008	2447175	C	46
01/18/2008	3557020	A	47
01/24/2008	3316625	A	86
02/09/2008	3557086	A	96
02/12/2008	3557076	B	67
02/14/2008	3557079	A	136
03/04/2008	3316571	C	110
03/18/2008	3561098	A	148
03/18/2008	3557548	B	79
04/03/2008	3557548	B	71

8. RESPONDENT failed to submit comprehensive trip logs to CIWMB in violation of PRC section 42961.5 on the following twenty-two occasions:

Transaction Date	CTL	Receipts A, B, C	Passenger Tire Equivalents
04/18/2006	3028642	C	141
05/19/2006	3028661	A	115
11/28/2006	3201334	C	100
01/23/2007	3316627	B	130
05/03/2007	3201653	C	96
06/01/2007	3557605	C	98
08/01/2007	3512451	C	97
09/07/2007	3512470	A	93

Transaction Date	CTL	Receipts A, B, C	Passenger Tire Equivalents
10/11/2007	3201358	B	102
01/02/2008	3557162	A	130
01/02/2008	3246773	C	60
01/10/2008	3557175	C	46
01/18/2008	3557020	A	47
01/24/2008	3316625	A	86
02/12/2008	3557076	B	67
02/14/2008	3557079	A	136
02/29/2008	3557086	A	96
03/04/2008	3557037	B	134
03/13/2008	3557097	C	Undetermined Amount
3/18/2008	3561098	A	148
03/18/2008	3512481	B	79
Missing	3557049	C	74

In aggravation, RESPONDENT was warned on April 25, 2005, April 3, 2006, and May 28, 2008, by CIWMB Letters of Violation that it failed to submit manifests to CIWMB in accordance with PRC section 42961.5(c)(2).

9. On or before June 18, 2008, until on or after July 9, 2008, RESPONDENT created and maintained an unpermitted minor waste tire facility pursuant to PRC section 42808 consisting of approximately 2000 waste tires, in violation of PRC section 42834 and PRC section 42951(b), on a fenced vacant lot across the street from 945 South Washington Avenue in San Bernardino, California 92408. A City inspector observed RESPONDENT dumping waste tires at this site on the following occasions:

- a. On June 19, 2008, RESPONDENT used a CIWMB registered truck with a sign stating "J&J Sahuayo Tires" with license plate no. 7K97395, dumped approximately 150 waste tires on the unpermitted minor waste

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1 tire facility located at the fenced vacant lot across the street from 945
2 South Washington Avenue in San Bernardino, California 92408.

- 3 b. On June 24, 2008, RESPONDENT used a CIWMB registered truck
4 with a sign stating "J&J Sahuayo Tires" with license plate no. 7K97395
5 dumped approximately 200 waste tires on the unpermitted minor waste
6 tire facility located at the fenced vacant lot across the street from 945
7 South Washington Avenue in San Bernardino, California 92408.

8 10. RESPONDENT failed to complete a manifest in violation of PRC section
9 42961.5 for one delivery of more than 10 waste tires on July 8, 2008, using a CIWMB
10 registered truck, license plate no. 7K97395, to the unpermitted waste tire facility located
11 at the vacant lot across the street from 945 South Washington Avenue in San
12 Bernardino, California 92408.

13 11. RESPONDENT failed to complete a manifest in violation of PRC section
14 42961.5 for one pick-up of at least 400 waste tires weighing 4.01 tons, on July 9, 2008,
15 using a CIWMB registered truck, license plate no. 7K97395, from the unpermitted waste
16 tire facility located at the vacant lot across the street from 945 South Washington
17 Avenue in San Bernardino, California 92408.

18 12. RESPONDENT is in violation of PRC section 42961.5 - Manifest
19 violations, which makes it unlawful to submit false, missing, or incomplete information.
20 RESPONDENT violated PRC section 42961.5 (c)(2) on two occasions as follows:

- 21 a. On May 21, 2008, RESPONDENT omitted the Facility Tire Program ID
22 number when completing the CTL form no. 3693004-C for a waste tire
23 pick up from Gary's Viking Auto located at 609 West Colton Avenue,
24 Redlands, California 92374.
- 25 b. On June 4, 2008, RESPONDENT omitted the Facility Tire Program ID
26 number when completing the CTL form no. 3693059-A for a waste tire
27 pick up from Gary's Viking Auto located at 609 West Colton Avenue,
28 Redlands, California 92374.

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- a. RESPONDENT violated PRC section 42956(b) and PRC section 4295, which makes it unlawful to operate a vehicle that transports 10 or more waste tires without a valid and current waste and used tire hauler registration in the vehicle.
- b. RESPONDENT violated PRC section 42951(b) by unlawfully transporting waste or used tires to an unauthorized facility that is not permitted, excluded, exempted, or otherwise authorized by the Board.
- c. RESPONDENT violated PRC section 42961.5 by transporting more than nine used or waste tires, and
 - i. failing to complete manifests (comprehensive trip logs);
 - ii. failing to submit manifests to CIWMB;
 - iii. omitting information in the manifests.

15. Pursuant to 14 CCR section 18464, the waste and used tire hauler penalty tables, the requested penalty of twenty-seven thousand dollars (\$27,000.00) is within the CIWMB's discretion.

16. No evidence of mitigation, extenuation or rehabilitation is offered.

1 **ORDER**

2 Good cause appearing, Complainant's motion to take action in accordance with
3 the provisions of Government Code Section 11520, subdivision (a) is granted.

4 THE FOLLOWING ORDER is hereby made:

5 RESPONDENT, JUAN RAMIREZ DBA JJ SAHUAYO TIRES; AKA J & J
6 SAHUAYO TIRES, is ordered to pay an administrative penalty of twenty-seven
7 thousand dollars (\$27,000.00) to the California Integrated Waste Management Board
8 within 30 (thirty) days of the date of this Decision.

9
10 **RESPONDENT'S RIGHT TO FILE WRITTEN MOTION**

11 Pursuant to Government Code section 11520(c) RESPONDENT has a right to
12 serve a motion:

13 Within seven days after service on the respondent of a decision based on the
14 respondent's default, the respondent may serve a written motion requesting
15 that the decision be vacated and stating the grounds relied on. The agency
16 in its discretion may vacate the decision and grant a hearing on a showing of
17 good cause. As used in this subdivision, good cause includes, but is not
18 limited to, any of the following: (1) Failure of the person to receive notice
19 served pursuant to Section 11505. (2) Mistake, inadvertence, surprise, or
20 excusable neglect.

21 This DECISION shall become effective 02/17/2009.

22 
23 MARGO REID BROWN

24 Chair

25 CALIFORNIA INTEGRATED
26 WASTE MANAGEMENT
27 BOARD
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