Accusation For Denial Of Application For Renewal Of Waste Tire Hauler Registration

California Integrated Waste Management Board

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Gray Davis
Governor

Winston H. Hickox
Secretary for Environmental Protection

ACCUSATION FOR DENIAL OF APPLICATION FOR RENEWAL OF WASTE TIRE HAULER REGISTRATION

TO: KIRK COFER dba NEVADA TIRE RECYCLING

The California Integrated Waste Management Board ("CIWMB") has denied the Nevada Tire Recycling application for waste tire hauler registration because of violations of Public Resources Code section 42950 et seq. documented in this calendar year. Attached to this accusation is a true and correct copy of a citation issued May 1, 2001, enumerating the violations of Public Resources Code section 42951, 42952, 42956 (c) and 42961.5.

Pursuant to Public Resources Code Section 42960 (a) (1) CIWMB may suspend, revoke or deny a waste tire hauler registration for a period of up to three years by filing an accusation if the applicant fails to comply with any requirements under this chapter. Public Resources Code Section 42961 allows the applicant to request a hearing by CIWMB when their application has been denied.

Unless a written request for a hearing signed by or on behalf of the person named as Respondent in this accusation is delivered or mailed to CIWMB within 15 days after this accusation was served on you, CIWMB may proceed upon the accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, as provided by Section 11506 of the Government Code to:

Keri Spaulding
California Integrated Waste Management Board
P. O. Box 4025
Sacramento, CA 95812-4025
Tel: (916) 341-6072

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code in the possession, custody or control of the agency, you may contact Keri Spaulding at the above address and telephone number.
The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the agency, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

Martha Gildart, July 13, 2001

Martha Gildart
Manager, Waste Tire Management Branch
California Integrated Waste Management Board

NOTICE OF DEFENSE PURSUANT TO GOVERNMENT CODE SECTION 11506

I, Kirk Cofer, doing business as Nevada Tire Recycling, acknowledge service of the accusation.

_____ Object to accusation upon ground it does not state acts or omissions upon which agency may proceed.

_____ Object to form of accusation upon ground that it is so indefinite or uncertain that I cannot identify transaction or prepare defense.

_____ Admit accusation in whole or in part.

_____ Present new matter by way of defense.

_____ Object to accusation upon ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

_____ Request a hearing.

DATE:

_____
Respondent

CALIFORNIA HIGHWAY PATROL
NOTICE TO APPEAR
CHP 215 (REV 10/89)

☒ MISDEMEANOR ☐ Violent/Felony ☐ Violent/Felony

59697NW

Date of Violation: 5/01/01 | Time: 1030 ☒ AM ☐ PM | Day of the Week: S M (T) W T F S | Spouse

Name (First, Middle, Last): Kirk Kenneth Cofer ☐ Owner's Responsibility (§40001 VC)

Address: 5080 Eden Rd

City: Paradise | State: CA | ZIP Code: 95969

Driver Lic. No.: C 7146050 | State: CA | Age: 50 | Birth Date: 8/6/45

Sex: M | Hair: Gry | Eyes: Hzl | Height: 5'9 | Weight: 205 | Race/Ethnicity: W

Veh. Lic. No.: 3T30862 CA | State: NV | CHP/DOT/PUC/CC | ☐ COMMERCIAL VEHICLE (§15210(b)VC)

Yr. of Veh.: 89 | Make: Chev | Body Style: 4/4 | 9347L 22/3L | Color: wht | Veh. Type

Evidence of Financial Responsibility: roesta us A1D1119266 ☐ Same as PUC/CC ID | ☐ HAZARDOUS MATERIAL (§353 VC)

Registered Owner or Lessee: Benjamin Kirk Cofer ☐ Same as Driver

Address: 1478 Pine Cone Way ☒ Same as Driver

City: Magalia | State: CA | ZIP Code: 95954

Correctable Violation (§40610 VC) | ☐ Booking Required | Misdemeanor or Infraction (Circle)

Yes	No	Code and Section	Description
☐	☒	31650 VC	42956.5 b PRC
☐	☐	transporting Waste tires without a	
☐	☐	Waste Manifest (2)	42956 PRC
☐	☐	transporting Waste tires	

Speed Approx. | P.F./Max Spd. | Veh. Lmt. | Safe | ☐ Cont. Form Issued

Location of Violation(s): SR 70 N/of Georgia Pacific Rd

Beat: 850 | Area: 240 | Form. Area: 701 | ☐ Accident | ☐ Radar Unit/Patrol Vehicle No.

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at (place): Oroville California

5/1/01 | Date | Arresting or Citing Officer | 10665 I.D. No. | to Vacation Dates

Form Area: | I.D. No. | to Vacation Dates

Name of Arresting Officer, if different from Citing Officer

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW

X SIGNATURE Complaint

WHEN: DATE: To Be Notified TIME: ☐ AM ☐ PM

WHAT TO DO: FOLLOW THE INSTRUCTION ON THE REVERSE

WHERE: ☒ SUPERIOR COURT ☐ MUNICIPAL COURT ☐ JUVENILE

ADDRESS: One Court Street

PHONE NO.: Oroville, CA 95965

☐ To be notified

☐ You may arrange with the clerk to appear at a night session of the court.

Notice to Appear form approved by the Judicial Council of California Rev. 10-6-00 (§40500(b), 40513(b), 40522, 40600 VC, § 853.9 PC.) TR-130

59697NW

Transnational Printing, Sacramento, Ca (916) 482-5888

STATE OF CALIFORNIA
CALIFORNIA HIGHWAY PATROL
CONTINUATION DOCUMENT
CHP 215S (REV 7-93) 004

☒ CHP 215 ☐ CHP 281 ☐ MISDEMEANOR ☐ TRAFFIC ☐ NON-

DATE: 5/01/01 | TIME: 1030 ☒ AM ☐ PM | DAY OF WEEK: S (M) T W T F S | SERIAL NO.: 59697

NAME (FIRST, MIDDLE, LAST): Kirk Kenneth Cofer

VEHICLE LICENSE NUMBER: 3T30862 CA / 67563L | STATE: NV

CORRECTABLE VIOLATION (§40610 VC) (SEE REVERSE)

YES	NO	VIOLATION(S)
☐	☐	with out a waste
☐	☐	tire transporter licen
☐	☐	
☐	☒	4000(a) VC California
☐	☐	registration fees due
☐	☐	both vehicles
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

☐ VIOLATION(S) NOT COMMITTED IN MY PRESENCE, DECLARED ON INFORMATION AND BELI

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THA INFORMATION ON THIS PAGE IS A CONTINUATION OF THE ENFORCEMENT DOCUMENT NOTED, A AND CORRECT

ISSUING OFFICER | ID | DATE: 10665

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE DESIGNATE BASIC DOCUMENT. ALSO, I PROMISE TO CORRECT ANY VIOLATIONS INDICATED AS CORRECTA

X SIGNATURE Complaint

FORM APPROVED BY THE JUDICIAL COUNCIL OF CALIFORNIA (7/1/89, §40500(b), 40513(b), 40522 VC, §853

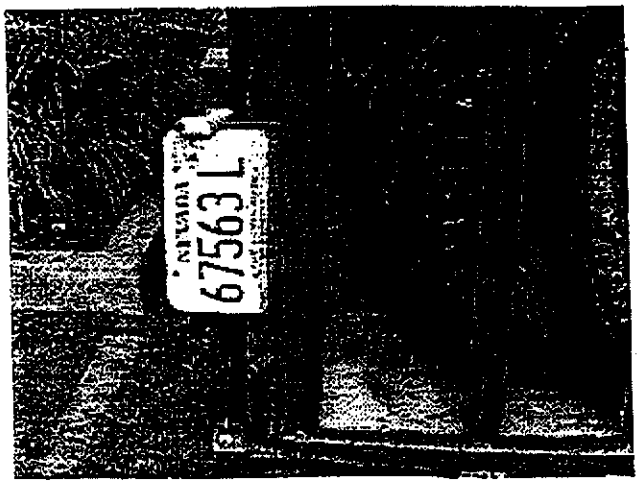
California Highway Patrol Kirk Kenneth Cofer	Hazardous Material Investigation 59698NW – 05/02/01

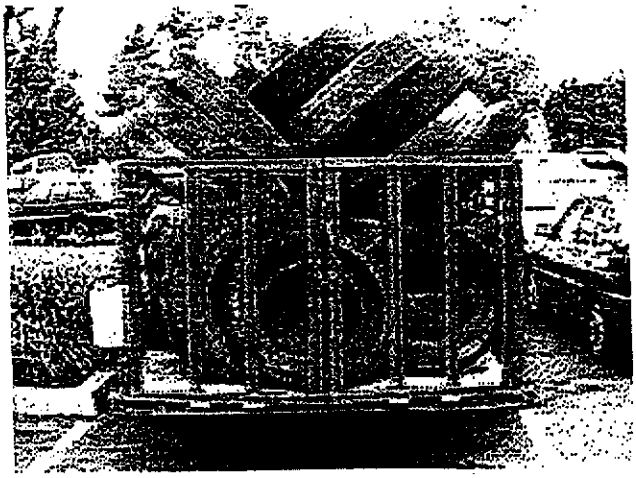
Summary:

On 05/01/01 at approximately 10:30 hours I was southbound on SR-70 turning left onto Georgia Pacific Road. I was in full uniform, and driving a marked patrol vehicle. I saw a white pick-up truck towing a blue utility trailer, northbound on SR-70. The truck and trailer were full of used tires. The load was not secured, and was loaded above the side racks on the trailer. There were three occupants in the vehicle. The driver was a heavy-set male with gray hair. The right passenger was a thin to medium build male with brown hair. The middle passenger was a female. I was enroute to weigh a log truck at the Union 76 Station on Feather River Boulevard. I used my cellular phone to notify Officer Hopkins, at the Oroville CHP Office, of the unsafe load of tires, northbound on SR-70. Within a few minutes Officer Hopkins advised me that he did not find the vehicle. Officer Mitchell came on the radio and asked what we were looking for. I told him that we were looking for a white pick-up towing a blue trailer loaded with tires. Mitchell advised me that he had found the vehicle in the parking lot between Walmart and Taco Bell. I responded to the area to watch the vehicle. I parked my patrol vehicle at the car wash. Within a few minutes the vehicle was moved to the east side of the parking lot, near the Walmart entrance. I drove into the parking lot. The driver that I had seen driving on SR-70 was walking away from the vehicle. I stopped and asked him if the load of tires was his. He replied that it was. I identified the driver with a valid California driver's license, as Kirk Kenneth Cofer. I advised him that I had seen him driving on SR-70 and I wanted to inspect the load, since it did not have any binders on the load. Cofer stated that the load was loaded so it was safe. I asked Cofer for the vehicle registrations and insurance papers. Cofer provided the items. I asked Cofer if he had a waste tire manifest. He stated that he did not have a manifest. Transporting waste tires without a waste tire manifest is a violation of 31650 VC, 42961.5(b) P.R.C. I asked Cofer if he had a waste tire registration. He replied that he did not, transporting waste tires without a waste registration is a violation of 31650 VC, 42956 P.R.C.

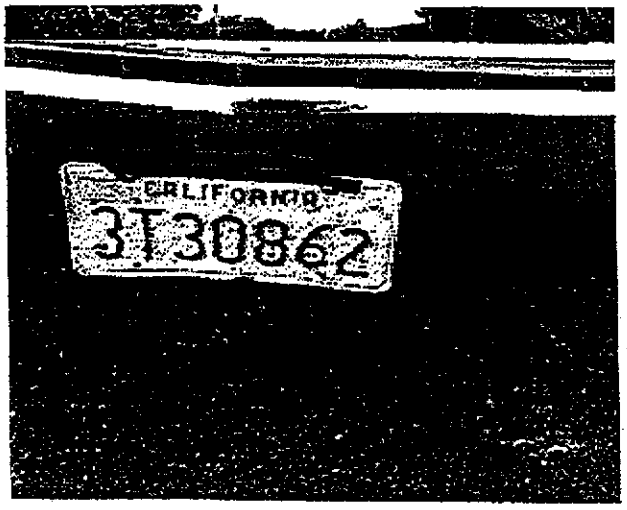
I inspected the registration and found that the truck registration had expired on 4/30/01, a violation of 4000(a) V.C. The trailer was registered in Nevada. Because the vehicle was being operated in support of a commercial enterprise, California registration fees are due on the Nevada Trailer, a violation of 4000 (a) V.C.

Based on my observations of the above vehicle and violations, I recommend the Butte County District Attorney's Office file the above charges against Kirk Kenneth Cofer. Complaint filed.


67563L



California Highway Patrol Kirk Kenneth Cofer	Hazardous Material Investigation 59698NW – 05/02/01



31560. (a) V.C. Any person operating a vehicle, or combination of vehicles, in the transportation of waste tires, shall be registered with the California Integrated Waste Management Board, unless specifically exempted, as provided in Chapter 19 (commencing with Section 42950) of Part 3 of Division 30 of the Public Resources Code and in regulations adopted by the board to implement that chapter.

(b) It is unlawful and constitutes an infraction for any person engaged in the transportation of waste tires to violate any provision of this article.

42807. "Waste tire" means a tire that is no longer mounted on a vehicle and is no longer suitable for use as a vehicle tire due to wear, damage, or deviation from the manufacturer's original specifications. A waste tire includes a repairable tire, scrap tire, and altered waste tire, but does not include a tire derived product, crumb rubber, or a used tire that is organized for inspection and resale by size in a rack or a stack in accordance with Section 42806.5.

42850. (a) Any person who negligently violates any provision of this chapter, or any permit, 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 more than five thousand dollars ($5,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(b) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to this article.

(c) Upon request of a city, county, or city and county, that city, county, or city and county may be designated, in writing, by the board, to exercise the enforcement authority granted to the board under this chapter. Any city, county, or city and county so designated shall follow the same procedures set forth for the board under this article. This designation shall not limit the authority of the board to take action it deems necessary or proper to ensure to enforcement of this chapter.

42850.1. (a) Any person who intentionally violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, shall, upon conviction, be punished by a fine not to exceed ten thousand dollars ($10,000) for each day of violation, by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) (1) Any person who intentionally violates any provision of

this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed ten thousand dollars ($10,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(2) Liability under this subdivision may be imposed in a civil action or may be imposed administratively pursuant to this article.

42951. (a) Every person who engages in the transportation of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt as specified in Section 42954.

(b) A registered waste and used tire hauler shall only transport waste or used tires to a facility that is permitted by the board or exempted pursuant to this division to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

42952. Except as provided in Section 42954, any person engaged in transporting waste or used tires shall comply with all of the following requirements:

(a) The person shall be registered as a waste and used tire hauler with the board.

(b) The person shall not advertise or represent himself or herself as being in the business of a waste and used tire hauler without being registered as a waste and used tire hauler by the board.

42956. (a) Upon approval of an application submitted pursuant to Section 42955, the board shall issue a waste and used tire hauler registration to be carried in the vehicle and a waste and used tire hauler decal to be permanently affixed to the lower right hand corner of the windshield.

(b) Any person who operates a vehicle or who authorizes the operation of a vehicle that transports 10 or more tires without a valid and current waste and used tire hauler registration, as issued by the board pursuant to Section 42955, shall be subject to the enforcement actions specified in Article 4 (commencing with Section 42962).

(c) The waste and used tire hauler registration shall be presented upon demand of an authorized representative of the board.

42961.5. (a) For purposes of this chapter, "California Uniform Waste and Used Tire Manifest" means a shipping document signed by a generator of waste or used tires, a waste and used tire hauler, or the operator of a waste or used tire facility that contains all of the information required by the board, including, but not limited to, an accurate measurement of the number of tires being shipped, the

type or types of the tires, the date the shipment originated, and the origin and intended final destination of the shipment.

(b) Any person generating waste or used tires that are transported or submitted for transportation, for offsite handling, altering, storage, disposal, or for any combination thereof, shall complete a California Uniform Waste and Used Tire Manifest, as required by the board. The generator shall provide the manifest to the waste and used tire hauler at the time of transfer of the tires. Each generator shall submit to the board, on a quarterly schedule, a legible copy of each manifest. The copy submitted to the board shall contain the signatures of the generator and the waste and used tire hauler. If approved by the board, in lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the board meeting the requirements of Section 42814.

(c) (1) Any waste and used tire hauler registered as required by subdivision (a) of Section 42951 shall have the California Uniform Waste and Used Tire Manifest in his or her possession while transporting waste or used tires. The manifest shall be shown upon demand to any representative of the board, any officer of the California Highway Patrol, or any local public officer designated by the local enforcement agency.

(2) Any waste and used tire hauler hauling waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof, shall complete the California Uniform Waste and Used Tire Manifest as required by the board. The waste and used tire hauler shall provide the manifest to the waste or used tire facility operator who receives the waste or used tires for handling, altering, storage, disposal, or any combination thereof. Each waste and used tire hauler shall submit to the board, on a quarterly schedule, a legible copy of each manifest. The copy submitted to the board shall contain the signatures of the generator and the facility operator. If approved by the board, in lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the board meeting the requirements of Section 42814.

42962. (a) Any person who does any of the following shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation of a separate provision or for continuing violations for each day that violation continues:

(1) Intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(2) Knowingly, or with reckless disregard, makes any false statement or representation in any application, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter.

(b) Liability under subdivision (a) may be imposed in a civil action.

(c) In addition to the civil penalty that may be imposed pursuant to subdivision (a), the board may impose civil penalties administratively in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or for continuing violations for each day that violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The board shall adopt regulations that specify the procedures and amounts for the imposition of administrative civil penalties pursuant to this subdivision.

42962.5. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this chapter as authorized representatives of the board.