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3
4 BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
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6 In the Matter of:)
7)
8 PUBLIC HEARING AND CONSIDERATION OF)
9 THE IMPOSITION OF PENALTIES AGAINST) FINDINGS AND ORDER
10)
11 **THE CITY OF ARVIN**)
12)
13 PURSUANT TO COMPLIANCE ORDER)
14 IWMA BR 03-05)
15)
16 (PUBLIC RESOURCES CODE 41850))

17 A duly convened public hearing before the California Integrated Waste Management Board
18 ("CIWMB") having been held on November 8, 2005, in Sacramento, California, in which the
19 City of Arvin participated, and based on the testimony and other evidence presented at that
20 hearing and based on the oral and written arguments made by the parties, City of Arvin and Staff
21 of CIWMB,

22 THE CIWMB DOES HEREBY MAKE THE FOLLOWING FINDINGS:

- 23 1. Public Resources Code (PRC) Section 41780 requires each City or County Source
24 Reduction and Recycling Element (SRRE) to include an implementation schedule
25 that shows how the City or County shall divert 50 percent of all solid waste on and
26 after January 1, 2000, through source reduction, recycling, and composting activities.
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- 1 **2.** PRC Section 41825 requires the CIWMB to review each City, County, and Regional
2 Agency's Source Reduction and Recycling Element at least every two years.
- 3 **3.** PRC Section 41825 provides that if the CIWMB finds that the City, County, or
4 Regional Agency has failed to implement its SRRE, the CIWMB shall issue an order
5 of compliance with a specific schedule for achieving compliance that shall include
6 those conditions which the CIWMB determines to be necessary for the jurisdiction to
7 complete in order to implement its SRRE.
- 8 **4.** PRC Section 41850 provides that if after holding a public hearing and issuing an
9 order of compliance pursuant to Section 41825, the CIWMB finds that the City,
10 County, or Regional Agency has failed to make a good faith effort to implement its
11 SRRE, the Board may impose administrative civil penalties upon the jurisdiction of
12 up to ten thousand dollars (\$10,000) per day until the jurisdiction implements the
13 element.
- 14 **5.** Based on the staff review of the jurisdiction's implementation of programs identified
15 in its SRRE, the CIWMB determined at a public hearing held on January 13, 2004,
16 that the City of Arvin had not made a good faith effort to implement the programs as
17 identified in their SRRE because it had failed to adequately handle diversion of waste
18 from its commercial sector and had achieved a diversion rate of only 28% for the year
19 2000, and issued Compliance Order No. IWMA BR03-05.
- 20 **6.** The compliance order included specific requirements that the City was to meet,
21 including working with the CIWMB to develop a Local Assistance Plan, with
22 expanded and new programs designed to achieve achieve a 50% diversion rate, which
23 the City would agree to by May 31, 2004.
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1 7. The City of Arvin submitted that Local Assistance Plan on June 15, 2004 with a
2 workplan listing specific programs that it was to implement by specified deadlines.

3 8. Based on evidence presented in today's hearing, the Board determined that the City of
4 Arvin failed to comply with the Board's Compliance Order Number IWMA BR 03-
5 05. Despite the fact that the City recently took substantial measures to comply with
6 the Compliance Order and implement the Local Assistance Plan, those measures
7 failed to bring the City's overall performance to the level of good faith effort, defined
8 by Public Resources Code §41850, to implement its source reduction and recycling
9 element.
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12 **BASED UPON THESE FINDINGS, THE CIWMB DETERMINED TO IMPOSE PENALTIES**
13 **IN THE FOLLOWING AMOUNTS PURSUANT TO PUBLIC RESOURCES CODE**
14 **SECTION 41850:**

- 15 1. A one time penalty amount of \$ 5,000, due and payable immediately.
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17 2. In addition, the Executive Director shall monitor, through quarterly reports submitted
18 by the City, the City's continued program implementation over the next year. The
19 City shall submit quarterly reports on the following dates: April 15, 2006; July 15,
20 2006; October 15, 2006; and, January 15 2007. If the Executive Director determines
21 on a quarterly basis that the City has failed to continue to implement its LAP tasks
22 through December 31, 2006, it will be penalized \$18,000 per quarter. Penalties for
23 non-compliance shall be due and payable within 30 days of assessment.
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26 **THIS ORDER SHALL BE EFFECTIVE 30 DAYS FROM SERVICE UPON THE CITY**
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1 SO ORDERED by the California Integrated Waste Management Board, on the 8th day of
2 November, 2005, in Sacramento, California, by the following vote:

3 AYES: Chair Marin, Board Members Mule, Peace, Petersen, and Washington
4 NOES:
5 ABSTAIN:
6 ABSENT:

7 DATED: _____
8 Rosario Marin
9 Chair

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