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9 **STATE OF CALIFORNIA**

10 **DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

11 **IN THE MATTER OF:**

12 **Golden By-Products, Inc.,**

13 **PROPERTY OWNER AND OPERATOR**

14
15 **RESPONDENT.**

16 **TPID NO.: 1003314**

11 **FIRST AMENDED ADMINISTRATIVE
COMPLAINT FOR WASTE TIRE
STORAGE PENALTIES**

14 **PUBLIC RESOURCES CODE SECTION
42850 ET SEQ.;**

16 **AGENCY NO. 2014-011166-ADC**

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19 **INTRODUCTION**

20 The California Department of Resources Recycling and Recovery ("CALRECYCLE")
21 issues this First Amended Administrative Complaint For Waste Tire Storage Penalties
22 (hereafter, "Amended Administrative Complaint") to GOLDEN BY-PRODUCTS, INC., Property
23 Owner and Operator (hereafter, referred to as "GOLDEN BY-PRODUCTS" or
24 "RESPONDENT") seeking \$965,000.00. The California Integrated Waste Management Board
25 ("CIWMB" or also referred to as, the "Board") is now CALRECYCLE. CALRECYCLE
26 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
27 (PRC) sections 40400 and 40401(a)(1).

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1 CALRECYCLE is authorized to inspect, permit, regulate, and conduct enforcement
2 actions against waste tire facilities and waste tire haulers within the State of California
3 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in
4 Title 14 of the California Code of Regulations ("CCR"). CALRECYCLE is authorized to issue
5 an administrative accusation for penalties to a person on whom civil liability may be imposed.
6 This First Amended Administrative Complaint is so issued based on the following facts.

7 **STATEMENT OF FACTS**

8 1. GOLDEN BY-PRODUCTS, INC., Tire Program Identification ("TPID") Number
9 1003314, is a major permitted waste tire facility located at 13000 Newport Dr., Ballico,
10 California, 95303, Assessor's Parcel Number 041-120-019 (hereafter, referred to as "the site").

11 2. RESPONDENT is a "Major waste tire facility" as that term is defined in PRC
12 section 42808(b).¹

13 3. On July 6, 2009, CALRECYCLE issued GOLDEN BY-PRODUCTS, INC. a new
14 waste tire facility permit for a "Major Waste Tire Facility," (hereafter, referred to as "Major
15 WTFP") authorizing a maximum permitted capacity of 1,500 tons of whole tires and primary
16 shreds (altered tires larger than 2 inches in diameter) (150,000 passenger tire equivalents
17 (PTEs)), and 8,500 tons of other material, as that material is described in the Major WTFP.

18 4. RESPONDENT's Major WTFP will expire on July 6, 2014.

19 5. From November 6, 2013, and until the present, RESPONDENT has stored in
20 excess of 150,000 PTEs of whole waste tires and/or primary shreds on the site, in violation of
21 RESPONDENT's Major WTFP.

22 6. On November 6, 2013, at 1:30 pm, Merced County Environmental Health
23 inspectors Esperanza Cabrera-Clark, Paul Wrighton, and supervisor Vickie Jones, along with
24 CALRECYCLE inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean Whalen, and
25 Mathew Vipond performed a routine inspection of RESPONDENT's site to ensure compliance
26 with applicable waste tire storage and disposal standards and the terms and conditions of
27 GOLDEN BY-PRODUCT's Major WTFP. Also in attendance during this inspection was
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¹ A "Major Waste Tire Facility" is defined as, "a waste tire facility where, at any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded." (PRC section 42808(b).)

1 Merced County Fire Marshal, Hank Moore, who performed a separate fire safety inspection of
2 the site.² Inspectors were met by Steve Krauss of GOLDEN BY-PRODUCTS, and Karen and
3 Brett Barstow, owners of GOLDEN BY-PRODUCTS.

4 During this inspection, Merced County and CALRECYCLE inspectors broke off into
5 respective groups to measure indoor/outdoor tire storage areas to determine compliance with
6 the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state
7 minimum standards. As documented in Inspection Report #I1-1206501, Merced County and
8 CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire
9 (greater than two inches in diameter) count of approximately 466,868 PTEs were being stored
10 on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits
11 as specified in conditions 4.d. and 15.a., and a violation of PRC section 42850(a). Additionally,
12 and as documented in Inspection Report #I1-1206501, Merced County and CALRECYCLE
13 inspectors determined that RESPONDENT was in violation of Title 14 CCR section 17354
14 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major
15 WTFP, specifically general conditions: 15.aa; 15. ff; 15. gg; 15. hh; 15. ii; 15. jj; 15. kk; 15. mm; and
16 15. nn. RESPONDENT was cited for these violations and received a Notice of Violation with a
17 compliance deadline date of March 3, 2014.³

18 7. On March 5, 2014, Merced County inspector Esperanza Cabrera-Clark and
19 CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Jean Whalen, Mathew Vipond, and
20 Dustin Schiavo returned to RESPONDENT's site to perform a re-inspection and determine
21 whether RESPONDENT had come into compliance with the compliance deadline date of
22 March 3, 2014. Also in attendance during this inspection were Margie Comotto and Kevin
23 Taylor, of CALRECYCLE's permitting division. Inspectors were met by Steve Krauss of
24 GOLDEN BY-PRODUCTS.

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28 ² On March 18, 2014, Merced County Fire Marshal, Hank Moore, issued RESPONDENT a Notice of Violation for the violations found during the fire inspection site visit on November 6, 2013.

³ Inspection Report #I1-1206501 citing the Notice of Violation and compliance deadline date was hand-delivered to RESPONDENT's facility on February 3, 2014 by Merced County Inspector Esperanza Cabrera-Clark.

1 During this inspection, Merced County and CALRECYCLE inspectors broke off into
2 respective groups to measure indoor/outdoor tire storage areas to determine compliance with
3 the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state
4 minimum standards. As documented in Inspection Report #IW-1010048, Merced County and
5 CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire
6 (greater than two inches in diameter) count of approximately 565,514 PTEs were being stored
7 on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits
8 as specified in conditions 4.d. and 15.a., and a violation of PRC section 42850(a). Additionally,
9 Merced County and CALRECYCLE inspectors determined that RESPONDENT was in
10 violation of Title 14 CCR section 17353 (vector control measures), Title 14 CCR section 17354
11 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major
12 WTFP, specifically general conditions: 15.o; 15.r; 15.aa; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; 15.nn;
13 and 15.qq. CALRECYCLE inspector Rob Baumann explicitly noted on Inspection Report #IW-
14 1010048 that RESPONDENT was in violation of Title 14 CCR section 17353(a), Vector
15 Control, since inspectors documented multiple examples of standing water with larva formation
16 in waste tires at RESPONDENT's site.

17 As documented in Inspection Report #IW-1010048, RESPONDENT was cited for these
18 violations, and the Notice of Violation given on November 6, 2013 was not extended and
19 remained in effect. Violations noted during the November 6, 2013 inspection were still
20 outstanding. RESPONDENT was not provided with a new compliance deadline date.
21 However, and as noted in Inspection Report #IW-1010048, CALRECYCLE will issue a
22 Cleanup and Abatement Order to RESPONDENT. Inspection Report #IW-1010048 was mailed
23 to RESPONDENT via first-class United States Postal Service (USPS) certified mail on March
24 14, 2014.

25 8. On March 14, 2014, CALRECYCLE issued Cleanup and Abatement Order
26 (hereafter, referred to as "CAO") 2014-011034-CAO to RESPONDENT for violating waste tire
27 storage laws and regulations, and for capacity violations related to RESPONDENT's Major WT
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1 Facility Permit. RESPONDENT was served with the CAO on or around March 17-18, 2014.⁴
2 RESPONDENT was ordered to, “remove all waste tires in excess of 1,500 tons or 150,000
3 passenger tire equivalents from the premises within 30 days from the date of service of this
4 Cleanup and Abatement Order (CAO).” (Emphasis added.) The CAO also ordered
5 RESPONDENT to do the following, “[b]eginning March 24, 2014, maintain daily incoming and
6 outgoing tonnage records for all waste/PTE tires until you obtain compliance with section one
7 [of the CAO] above . . . submit [above records] to Geralda Stryker of my [CALRECYCLE] staff .
8 . . by close of business on Friday of each week for the duration.” The CAO also noticed
9 RESPONDENT that failure to comply with the CAO by the specified date may subject
10 RESPONDENT to civil penalties, the issuance of an injunction, criminal penalties, and/or
11 administrative civil penalties pursuant to PRC sections 42845, 42850, and 42850.1.
12 RESPONDENT had 10 days from the date of service of the CAO to file a petition with
13 CALRECYCLE to raise any substantial issues appropriate for review. CALRECYCLE did not
14 receive a petition from RESPONDENT.

15 9. On April 29, 2014, Merced County inspector Esperanza Cabrera-Clark and
16 CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean Whalen,
17 Mathew Vipond, Dustin Schiavo, and Nikki Castagneto returned to RESPONDENT’s site to
18 perform a follow-up inspection to determine whether RESPONDENT had come into
19 compliance with the CAO. Also in attendance during this inspection was Geralda Stryker,
20 supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by
21 Karen Barstow, owner of GOLDEN BY-PRODUCTS, and Steve Krauss of GOLDEN BY-
22 PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke
23 off into respective groups to measure indoor/outdoor tire storage areas to determine
24 compliance with the Major WTFP capacity limits, other terms and conditions of the Major
25 WTFP, and state minimum standards. As documented in Inspection Report #IW-1011032,
26 Merced County and CALRECYCLE inspectors determined that a total whole waste tire and
27 altered waste tire (greater than two inches in diameter) count of approximately 946,400 PTEs

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⁴ On March 19, 2014, CALRECYCLE received a returned USPS registered certified mail receipt, signed by Lisa Gomes of Golden By-Products.

1 were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major
2 WTFP capacity limits as specified in conditions 4.d. and 15.a., the CAO, and a violation of
3 PRC section 42850(a).

4 Additionally, Merced County and CALRECYCLE inspectors determined that
5 RESPONDENT was still in violation of Title 14 CCR section 17353 (vector control measures),
6 Title 14 CCR section 17354 (storage of waste tires outdoors), and in violation of specific terms
7 and conditions in its Major WTFP, specifically general conditions: 15.r; 15.aa; 15.hh; 15.ii; 15.jj;
8 15.kk; 15.mm; 15.nn; and 15.qq. CALRECYCLE inspector Rob Baumann explicitly noted on
9 Inspection Report #IW-1011032 that RESPONDENT was still in violation of Title 14 CCR
10 section 17353(a), Vector Control, since inspectors documented examples of standing water
11 with larva formation in waste tires at RESPONDENT's site. Inspectors notified the Merced
12 County Mosquito Abatement District shortly after the March 5, 2014 inspection when violation
13 of Title 14 CCR section 17353 was first documented. On June 2, 2014, the Merced County
14 Mosquito Abatement District issued a letter to Karen Barstow, owner of GOLDEN BY-
15 PRODUCTS, regarding facility [site] inspections wherein the Merced County Mosquito
16 Abatement District detected "a limited amount of mosquito breeding" during each site
17 inspection of a species "capable of transmitting West Nile virus."

18 As documented in Inspection Report #IW-1011032, RESPONDENT was cited for these
19 violations. RESPONDENT still had not come into compliance with the terms and conditions of
20 its Major WTFP, nor had RESPONDENT removed all waste tires in excess of 1,500 tons or
21 150,000 PTEs within the 30-day timeframe as ordered by the CAO. Inspection Report #IW-
22 1011032 was sent via electronic mail to Steve Krauss of GOLDEN BY-PRODUCTS on May
23 12, 2014, and via USPS first-class mail on May 13, 2014.

24 10. On June 4, 2014, Merced County Inspector Esperanza Cabrera-Clark and
25 CALRECYCLE Inspectors Robert Baumann, Mathew Vipond, Dustin Schiavo, Peder Kryski,
26 Jean Whalen, Billy Yos returned to RESPONDENT's site to determine whether
27 RESPONDENT had come into compliance with the CAO. During this inspection, the
28 inspectors focused on RESPONDENT's compliance with its Major WTFP capacity related

1 conditions 4.d. and 15.a. Also in attendance during this inspection was Geralda Stryker,
2 supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by
3 Karen Barstow, owner of GOLDEN BY-PRODUCTS, and Steve Krauss of GOLDEN BY-
4 PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke
5 off into respective groups to measure indoor/outdoor tire storage areas to determine
6 compliance with the Major WTFP capacity limits. As documented in Inspection Report #IW-
7 1011790, Merced County and CALRECYCLE inspectors determined that a total whole waste
8 tire and altered waste tire (greater than two inches in diameter) count of approximately
9 614,697 PTEs were being stored on RESPONDENT's site. This is in violation of
10 RESPONDENT's Major WTFP capacity limits, the CAO, and a violation of PRC section
11 42850(a). RESPONDENT was still in violation of Title 14 CCR section 17354 (storage of waste
12 tires outdoors), and the specific terms and conditions in its Major WTFP, specifically general
13 conditions: 15.aa; 15.hh; 15.jj; and 15.kk.

14 As documented in Inspection Report #IW-1011790, RESPONDENT was cited for these
15 violations. RESPONDENT still had not come into compliance with the capacity limits and other
16 terms and conditions of its Major WTFP, nor had RESPONDENT removed all waste tires in
17 excess of 1,500 tons or 150,000 PTEs within the 30-day timeframe as ordered by the CAO.
18 Inspection Report #IW-1011790 was sent via electronic mail to Steve Krauss, Brett Barstow,
19 and Karen Barstow of GOLDEN BY-PRODUCTS on June 17, 2014, and via first-class USPS
20 mail on June 25, 2014.

21 11. On June 24, 2014, Merced County inspector Esperanza Cabrera-Clark and
22 CALRECYCLE Inspectors Robert Baumann, Peder Kryski, Jean Whalen, Mathew Vipond,
23 Nikki Castagneto, Mary LeClaire, Billy Yos, and Nai Teurn returned to RESPONDENT's site to
24 conduct a pre-permit inspection and determine whether RESPONDENT had come into
25 compliance with the CAO. Also in attendance during this inspection was Merced County Fire
26 Marshal, Hank Moore, who performed a separate fire safety inspection of the site.
27 CALRECYCLE inspector Billy Yos accompanied Merced County Fire Marshal Hank Moore
28 during the fire safety inspection for an approximate 20 minute duration of the fire safety

1 inspection. Inspectors were met by Brett Barstow, co-owner of GOLDEN BY-PRODUCTS. As
2 in previous inspections, Merced County and CALRECYCLE inspectors broke off into
3 respective groups to measure indoor/outdoor tire storage areas to determine compliance with
4 the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state
5 minimum standards.

6 As documented in Inspection Report #IW-1011953, Merced County and CALRECYCLE
7 inspectors determined that a total whole waste tire and altered waste tire (greater than two
8 inches in diameter) count of approximately 686,027 PTEs were being stored on
9 RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits as
10 specified in conditions 4.d. and 15.a., the CAO, and a violation of PRC section 42850(a).
11 Additionally, Merced County and CALRECYCLE inspectors determined that RESPONDENT
12 was still in violation of Title 14 CCR section 17354 (storage of waste tires outdoors), and in
13 violation of specific terms and conditions in its Major WTFP, specifically general conditions:
14 15.c; 15.aa; 15.dd; 15.ee; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; 15.nn; and 15.qq. Furthermore, Fire
15 Safety Marshal Hank Moore issued a "Fire Safety Notice" to RESPONDENT on June 27, 2014,
16 requiring RESPONDENT to come into compliance with current California Fire Code (CFC),
17 Merced County Code, and Title 19 of the CCR, and noting additional requirements for the
18 following items: (1) fire extinguishers need to be checked monthly; (2) access to fire hydrants
19 needs to be cleared and hydrants must have a minimum foot width distance; (3) need current
20 maintenance/flow test records for water pumps as requested during the November 6, 2013 fire
21 safety inspection; (4) and pumps need to be corrected to meet CFC standards.

22 As documented in Inspection Report #IW-1011953, RESPONDENT was cited for these
23 violations. RESPONDENT still had not come into compliance with the terms and conditions of
24 its Major WTFP, nor had RESPONDENT removed all waste tires in excess of 1,500 tons or
25 150,000 PTEs within the 30-day timeframe as ordered by the CAO. Additionally,
26 RESPONDENT had not come into compliance with Fire Safety Plan which requires an
27 adequate water supply to be available for use by the local fire authority, pursuant to Title 14
28 CCR section 17351(c). Inspection Report #IW-1011953 will be sent via electronic mail to Steve

1 Krauss of GOLDEN BY-PRODUCTS and via USPS first-class mail by close of business on
2 June 27, 2014.

3 12. RESPONDENT's Major WTFP expired on July 6, 2014.

4 13. On July 17, 2014, Merced County inspector Esperanza Cabrera-Clark and
5 CALRECYCLE Inspectors Robert Baumann, Jean Whalen, Mathew Vipond, Nikki Castagneto,
6 Dustin Schiavo, Billy Yos, and Nai Teurn returned to RESPONDENT's site to perform an
7 inspection to determine compliance with state minimum standards and waste tires laws as set
8 forth in Chapter 16 of the PRC. Also in attendance during this inspection was Geralda Stryker,
9 supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by
10 Amber Barstow and Stephen Krauss of GOLDEN BY-PRODUCTS. As in previous
11 inspections, Merced County and CALRECYCLE inspectors broke off into respective groups to
12 measure indoor/outdoor tire storage areas.

13 As documented in Inspection Report #IW-1012530, Merced County and CALRECYCLE
14 inspectors determined that a total whole waste tire and altered waste tire (greater than ¼
15 inches in diameter) count of approximately 611,860 PTEs were being stored on
16 RESPONDENT's site. This is in violation of PRC section 42824, which makes it "unlawful to
17 direct or transport waste tires to a major waste tire facility or to accept waste tires at a major
18 waste tire facility unless the operator has obtained a major waste tire facility permit." During
19 the inspection, Merced County and CALRECYCLE inspectors determined that RESPONDENT
20 was also in violation of Title 14 CCR sections 17351(c) (fire prevention measures) and 17354
21 (storage of waste tires outdoors). RESPONDENT was given a Notice of Violation with a
22 compliance deadline of July 17, 2014. These violations included violations for improper tire pile
23 storage, insufficient separation between tire piles and flammable materials, surface water
24 drainage issues, and failure to remove tires from rims upon arrival at the facility. Inspection
25 Report #IW-1012530 was sent via USPS first-class mail on August 15, 2014, and via electronic
26 mail to Karen Barstow of GOLDEN BY-PRODUCTS on August 19, 2014.

27 14. On August 15, 2014, CALRECYCLE issued a subsequent Cleanup and
28 Abatement Order (hereafter, referred to as "August 2014 CAO") 2014-011036-CAO to

1 RESPONDENT for violating waste tire storage laws and regulations, including but not limited
2 to, violations of state minimum standards and storing 5,000 or more waste tires on the site
3 without a valid major waste tire facility permit. RESPONDENT was served with the CAO on or
4 around August 19, 2014. RESPONDENT was ordered to, “*reduce and maintain the number of*
5 *waste tires onsite to 0 (zero), in accordance with the following: (1) Remove all waste tires from*
6 *the premises immediately, in accordance with PRC section 42845(a)(2). (2) At no time may*
7 *you accept additional waste tires at this site, . . . for as long as this site remains in violation.*”
8 (Emphasis added.) The CAO also noticed RESPONDENT that failure to comply with the CAO
9 may subject RESPONDENT to civil penalties, the issuance of an injunction, criminal penalties,
10 and/or administrative civil penalties pursuant to PRC sections 42845, 42850, and 42850.1.
11 RESPONDENT has 10 days from the date of service of the CAO to file a petition with
12 CALRECYCLE to raise any substantial issues appropriate for review.

13 ALLEGATIONS OF SPECIFIC VIOLATIONS

14 15. CALRECYCLE seeks administrative penalties of \$965,000.00 pursuant to PRC
15 sections 42850.1(b) and Title 14 CCR section 18429. The administrative penalties are based
16 on the above-mentioned facts, and for the following violations as more specifically set forth in
17 the foregoing paragraphs.

- 18 a. RESPONDENT is in violation of the CAO, thereby violating PRC section
19 42845, which requires any person, upon order of CALRECYCLE, to clean-
20 up, abate the effects of waste tires, or take other remedial action as
21 necessary. The CAO ordered RESPONDENT to, “*remove all waste tires*
22 *in excess of 1,500 tons or 150,000 passenger tire equivalents from the*
23 *premises within 30 days from the date of service of this Cleanup and*
24 *Abatement Order (CAO).*” (Emphasis added.)

25 RESPONDENT’s deadline to comply with the CAO was on or
26 around April 19, 2014. On April 29, 2014, RESPONDENT was storing
27 approximately 946,400 passenger tire equivalents on the site. On June 4,
28 2014, RESPONDENT was storing approximately 614,697 passenger tire

1 violation of a separate provision or, for continuing violations, for
2 each day that the violation continues.

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

5 RESPONDENT is subject to an administrative penalty of up to \$10,000 per violation of a
6 separate provision, or for continuing violations for each day RESPONDENT continues to be in
7 violation.

8 18. Title 14 CCR section 18429(b)(1) authorizes a base penalty of \$8,000.00 for
9 every day the intentional violation continues after the deadline set forth in the CAO against
10 permitted waste tire facilities that accumulate between 50,000 or more waste tires in excess of
11 their permitted capacity.

12 19. Beginning on April 19, 2014, the deadline set forth in the CAO, and until July 17,
13 2014, the date of the last inspection completed before issuance of this First Amended
14 Administrative Complaint, RESPONDENT has stored between 300,000 to 800,000 more waste
15 tires in excess of its permitted capacity. Penalties against RESPONDENT have accumulated in
16 the amount of \$900,000.00.⁵

17 20. Penalties will continue to accumulate for every day that RESPONDENT is in
18 violation of the CAO and the August 2014 CAO.

19 21. Title 14 CCR section 18429(b)(1) authorizes additional penalties in the following
20 amounts: (1) violations of permit conditions (except capacity violations), \$500.00 - \$5,000.00
21 range for each occurrence of the violation; (2) violations of Title 14 CCR section 17353, Vector
22 Control Measures, \$500.00 - \$5,000.00 range for each occurrence of the violation; and (3)
23 violations of Title 14 CCR section 17354, parameters for storage of waste tires outdoors,
24 \$500.00 - \$5,000.00 range for each occurrence of the violation.

25 22. Beginning on November 6, 2013, and every inspection conducted thereafter
26 ending with the June 24, 2014 inspection, RESPONDENT was in violation of Title 14 CCR
27 section 17354, the improper storage of waste tire outdoors, and the terms and conditions of its

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⁵ Pursuant to the penalty schedule set forth in Title 14 CCR section 18429, the following penalty was calculated for RESPONDENT: \$8,000.00 x 1.25 risk factor x 90 days (April 19, 2014 to July 17, 2014) = \$900,000.00.

1 Major WTFP. On March 5, 2013, and thereafter on April 29, 2014, RESPONDENT was in
2 violation of Title 14 CCR section 17353, complying with vector control measures. On July 17,
3 2014, RESPONDENT was in violation of Title 14 CCR section 17354, parameters for storage
4 of waste tires outdoors. Additional penalties against RESPONDENT have accumulated in the
5 amount of \$65,000.00.⁶

6 23. In determining an appropriate administrative penalty for RESPONDENT,
7 CALRECYCLE has taken into consideration the nature, circumstances, extent and gravity of
8 the violation, RESPONDENT's past and present efforts to prevent, abate, or clean up
9 conditions posing a threat to the public health or safety or the environment, RESPONDENT's
10 ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the
11 proposed penalty will have on both RESPONDENT and on the regulated community as a
12 whole.

13 24. Pursuant to PRC section 42846.5, the imposition of penalties herein may form
14 the basis for a subsequent CALRECYCLE order permitting CALRECYCLE or its contractor's
15 access to the property mentioned herein to perform cleanup, abatement or remedial work
16 under PRC section 42846. Further, PRC section 42847 authorizes CALRECYCLE to seek
17 recovery of the costs of any cleanup abatement or remedial work.

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19 **PRAYER FOR RELIEF**

20 WHEREFORE, CALRECYCLE prays for judgment as follows:

21 1. That an administrative penalty be assessed against RESPONDENT for
22 \$965,000.00.

23 2. That additional penalties be assessed against RESPONDENT for continuing
24 violations according to proof, and such other and further relief as the director, or an
25 administrative law judge, if the hearing is converted to a formal hearing, deems just and
26 proper.

27 _____
28 ⁶ Pursuant to the penalty schedule set forth in Title 14 CCR section 18429, Table 5, the following penalty was
calculated for RESPONDENT: two violations of Title 14 CCR § 17353 x \$5,000.00 + six violations of Title 14
CCR § 17354 x \$5,000.00 + five violations of waste tire facility permit conditions x \$5,000.00 = \$65,000.00.

