

1 ELLIOT BLOCK SBN 116999
Chief Counsel
2 HEATHER L. HUNT SBN 225861
Staff Counsel III
3 Attorney for Complainant
CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
4 1001 I Street, 23rd Floor
P. O. Box 4025
5 Sacramento, CA 95812-4025
Telephone: (916) 341-6068
6 Facsimile: (916) 319-7677

7 STATE OF CALIFORNIA

8 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

9 IN THE MATTERS OF:

10 DANIEL GOMEZ DBA COAST TIRE
11 RECYCLING

12 TPID NOS: 1552814
13 1598468

14 RESPONDENT.

STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR THE
DENIAL OF THE WASTE AND USED
TIRE HAULER REGISTRATION AND
WASTE TIRE STORAGE PENALTIES

PUBLIC RESOURCES CODE SECTION
42960

15 AGENCY NOS. 2009-000049-DEN
2009-011107-ADC

16 OAH NO. 2009-121236
2010-041189

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20 The parties to this STIPULATION FOR THE ISSUANCE OF ADMINISTRATIVE
21 DECISION FOR THE DENIAL OF THE WASTE AND USED TIRE HAULER
22 REGISTRATION AND WASTE TIRE STORAGE PENALTIES ("Stipulation") are the
23 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
24 ("CALRECYCLE") and DANIEL GOMEZ DBA COAST TIRE RECYCLING
25 ("RESPONDENT"). CALRECYCLE served an Administrative Complaint For Waste Tire
26 Storage Administrative Penalties on March 10, 2010 and a Statement of Issues for the
27 Denial of Waste and Used Tire Hauler Registration on November 24, 2009, which were
28 subsequently consolidated.

1 The parties have agreed to settle these matters in order to avoid the cost and
2 uncertainty of litigation. This Stipulation resolves all issues raised in the consolidated
3 cases.

4 **STIPULATED STATEMENT OF FACTS**

5 1. CALRECYCLE has authority to inspect, permit, regulate and conduct
6 enforcement actions against Waste Tire Facilities within the State of California under
7 Public Resources Code (PRC) section 42800, et seq., and attendant regulations
8 contained in Title 14 of the California Code of Regulations (CCR).

9 2. CALRECYCLE is authorized to suspend, revoke, or deny a waste and
10 used tire hauler registration for a period of up to three years if the holder of the
11 registration commits more than three violations of, or fails to comply with, any
12 requirements of California's Tire Hauler Registration Law set forth in PRC section
13 42950 et seq., or any requirements of California's Waste Tire Law set forth in PRC
14 section 42800 et seq., or the regulations adopted pursuant to these provisions, within a
15 one-year period.

16 3. RESPONDENT has been a registered waste and used tire hauler since
17 February 13, 2001.

18 4. Pursuant to PRC section 42834 and 14 CCR section 18420, the operator
19 of a Waste Tire Facility accepting and storing more than 499 waste tires must possess a
20 valid Minor Waste Tire Facility Permit issued by CALRECYCLE.

21 5. Pursuant to PRC section 42823 a Waste Tire Facility storing more than
22 4,999 waste tires must possess a valid Major Waste Tire Facility Permit issued by
23 CALRECYCLE.

24 6. On May 12, 2009, CIWMB Inspector Steve Dolan, conducted an
25 inspection of 1220 West Main Street, in Santa Maria, California 93454. The inspector
26 determined that more than 6,000 waste tires were stored at this site and issued a Notice
27 of Violation (Inspection Report I6-1059908). On June 16 2009, Inspector Dolan
28 conducted a follow-up inspection and issued a Notice of Violation after he determined

1 that 750 waste tires remained onsite (Inspection Report I1-1095517).

2 7. On August 13, 2009, the CIWMB issued Cleanup and Abatement Order
3 No. 2009-010981-CAO (CAO) requiring the removal of the waste tires located at 1220
4 West Main Street, Santa Maria, CA 93454, within thirty (30) days of service of the CAO.
5 On November 9, 2009, Inspector Dolan conducted a re-inspection and documented that
6 less than 500 waste or used tires remained on the site.

7 8. On October 18, 2009, CIWMB Inspector Steve Dolan conducted an
8 inspection at 1270 W. McCoy Lane, Santa Maria, California, 93455. The inspector found
9 more than 4,900 waste tires stored at this site and issued a Notice of Violation
10 (Inspection Report No. I1-1059845). On November 9, 2009, Inspector Dolan conducted
11 a follow-up inspection, and verified all waste tires had been removed from this site.

12 9. On November 9, 2009, CIWMB Inspector Steve Dolan conducted an
13 inspection at 1440 Jason Way, Units # 118 and 120, Orcutt, CA 93455. The inspector
14 determined that more than 2,850 waste tires were stored on this site and issued a
15 Notice of Violation to RESPONDENT (Inspection Report I9-1068077).

16 10. RESPONDENT is currently operating a "collection facility" as set forth in
17 14 CCR section 17225.717, registered with CALRECYCLE under TPID no: 1552814.

18 11. RESPONDENT failed to manifest loads of waste tires to the three waste
19 tire facilities discussed in paragraphs 6 through 9 above.

20 12. On September 14, 2009, CIWMB issued a Decision and Order for \$400 in
21 waste tire hauler penalties pursuant to a Stipulation between the CIWMB and
22 RESPONDENT for manifesting violations. Specifically, on eight occasions between
23 January 1, 2009 and January 31, 2009, RESPONDENT failed to submit completed
24 manifest forms to the CIWMB within ninety (90) days in violation of PRC section
25 42961.5.
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1 U.S. Mail. Said Notice shall apprise RESPONDENT of any past-due amount on the
2 hereto stipulated amount. RESPONDENT shall have thirty (30) days from the date of
3 the Notice to remit the amount owed and not already paid to CALRECYCLE. If
4 RESPONDENT ultimately fails to remit payment of the full hereto stipulated amount,
5 CALRECYCLE shall pursue any means available to recoup the remainder, including but
6 not limited to, court proceedings, contracting with collection agencies, and referring the
7 matter to the Franchise Tax Board.

8 18. RESPONDENT further stipulates that it shall advise CALRECYCLE of any
9 new location of its collection facility; provide CALRECYCLE with an authorization signed
10 by the property owner granting RESPONDENT the use of the property to operate its
11 collection facility at any new location; and provide CALRECYCLE with official
12 documentation from the relevant local jurisdiction authorizing RESPONDENT to operate
13 its collection facility at any new location, such as a business license.

14 19. **Default:** RESPONDENT shall be deemed in default of this Stipulation if,
15 between the date of signature of the Administrative Decision in this matter and two
16 years from that date, RESPONDENT, or a business, corporation, partnership, or limited
17 liability company operated or owned by RESPONDENT does any of the following:

18 a) transports, hauls, or otherwise directs any waste or used tires from one
19 location to another location during the two-month period of suspension;

20 b) allows another hauler to use RESPONDENT's vehicles, registered with
21 CALRECYCLE, to transport waste or used tires during the two-month period of
22 suspension;

23 c) participates in the operation of another waste or used tire hauling business
24 during the two-month period of suspension;

25 d) fails to obey any provision of the Waste Tire Hauler Registration Law set forth
26 in PRC section 42950 et seq. and its attendant regulations;

27 e) fails to obey any provision of the Waste Tire Law set forth in PRC section
28 42800 et seq., and its attendant regulations;

1 f)fails to operate its collection facility in accordance with the requirements set
2 forth in 14 CCR section 17225.717;

3 g)fails to notify CALRECYCLE of any new location at which it is operating its
4 collection facility;

5 h) fails to obtain and submit to CALRECYCLE authorization from the property
6 owner of the location at which RESPONDENT operates its collection facility;

7 i)fails to obtain and submit to CALRECYCLE official authorization from the local
8 jurisdiction allowing RESPONDENT to operate its collection facility at any new location;
9 or

10 h)fails to maintain a manifest error rate of not greater than seven percent (7%) of
11 errors and omissions, where at most one error or omission is counted per manifest, in
12 any three month period.

13 20. If RESPONDENT defaults under the terms of this Stipulation,
14 CALRECYCLE shall issue a Notice of Default to RESPONDENT. RESPONDENT shall
15 have fifteen (15) days from the date of the issuance of the Notice of Default to provide
16 evidence refuting CALRECYCLE's claim of default. After a review of the evidence
17 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the
18 default and, if appropriate, shall issue a Supplemental Decision regarding any remaining
19 penalties due or stayed suspension time then ordered to be served.

20 21. Nothing in this Stipulation shall preclude CALRECYCLE from using any
21 enforcement mechanism – administrative, civil, or criminal – should RESPONDENT
22 commit future violations of waste tire storage laws, waste tire hauler laws, or permitted
23 conditions. The Administrative Decision adopting this Stipulation is considered a final
24 order that can be used in subsequent enforcement actions as evidence of prior bad
25 acts.

26 22. No covenant, promise, term, condition, or breach of or under this
27 Stipulation shall be deemed to have been waived except as expressly so stated in
28 writing by CALRECYCLE. A waiver by CALRECYCLE of any breach by RESPONDENT

1 of this Stipulation shall not be deemed a waiver of any preceding or subsequent breach
2 or default by RESPONDENT.

3 23. RESPONDENT has freely and voluntarily entered into this Stipulation and
4 has been afforded the opportunity to consult with counsel prior to entering into this
5 Stipulation. It is expressly understood and agreed that no representations or promises
6 of any kind, other than as contained herein, have been made by any party to induce any
7 other party to enter into this Stipulation, and that said Stipulation may not be altered,
8 amended, modified, or otherwise changed except by a writing executed by each of the
9 parties hereto. Each party hereto agrees to execute and deliver any and all documents
10 and to take any and all actions necessary to consummate this Stipulation and to carry
11 out its term and provisions.

12 24. Except as expressly provided herein, RESPONDENT waives the right to a
13 hearing, any and all appeals and any and all rights that may be afforded pursuant to the
14 PRC, the Administrative Procedure Act, or any other provision of law regarding the
15 express provisions of this Stipulation.

16 25. This Stipulation shall be binding and inure to the benefit of the successors,
17 heirs, and assigns of the respective parties hereto.

18 26. The Stipulation and Administrative Decision to be issued constitute the
19 entire understanding of the parties concerning the settlement of this proceeding. There
20 are no restrictions, promises, warranties, covenants, undertakings, or representations
21 other than those expressly set forth herein or contained in separate written documents
22 delivered or to be delivered pursuant hereto, and each party expressly acknowledges
23 that it has not relied up on any restrictions, promises, warranties, covenants,
24 undertakings, or representations other than those expressly contained herein.

25 27. If necessary, this Stipulation may be executed in counterparts, each of
26 which shall be an original, and all together shall form one agreement. In addition, for
27 purposes of this Stipulation, facsimile signatures will be treated as originals until the
28 applicable page(s) bearing non-facsimile signatures have been received by the parties.

1 28. The effective date of this Administrative Decision is the date of issuance of
2 CALRECYCLE'S Executive Director's Administrative Decision.

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5 Dated: September 22, 2010



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MARK LEARY
Executive Director
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

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11 Dated: 9-2-10



HEATHER L. HUNT
Staff Counsel III
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

17 Dated: _____

DANIEL GOMEZ
Owner/Operator
COAST TIRE RECYCLING

22 Dated: _____

ROGER M. HUBBARD
Attorney At Law
ROGER M. HUBBARD LAW FIRM

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Daniel Gomez

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ROGER M HUBBARD LAW

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28. The effective date of this Administrative Decision is the date of issuance of CALRECYCLE'S Executive Director's Administrative Decision.

Dated: _____

MARK LEARY
Executive Director
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

Dated: _____

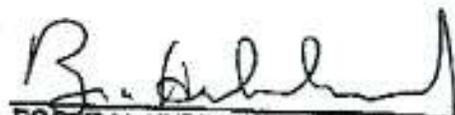
HEATHER L. HUNT
Staff Counsel III
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

Dated: 9-1-10



DANIEL GOMEZ
Owner/Operator
COAST TIRE RECYCLING

Dated: 9-1-10



ROGER M. HUBBARD
Attorney At Law
ROGER M. HUBBARD LAW FIRM