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8  
9 STATE OF CALIFORNIA  
10 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

11 In the matter of:  
12 PARKHOUSE TIRE SERVICE, INC.  
13  
14 TPID NO: 1000089-01  
15 RESPONDENT.

STIPULATION FOR ISSUANCE OF  
ADMINISTRATIVE DECISION FOR  
WASTE TIRE HAULER  
ADMINISTRATIVE PENALTIES, PUBLIC  
RESOURCES CODE SECTION 42960  
AGENCY NO: 2010-011110-ADA  
OAH NO: 2010-120059

16  
17 **INTRODUCTION**

18 The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE  
19 DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation)  
20 are the Department of Resources, Recycling and Recovery (CALRECYCLE) and  
21 PARKHOUSE TIRE SERVICE, INC (RESPONDENT). The ADMINISTRATIVE  
22 COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES  
23 (Administrative Complaint) was served on October 28, 2010, on RESPONDENT.  
24 RESPONDENT requested a hearing on November 1, 2010. A hearing was scheduled  
25 for July 13, 2011, in Los Angeles, California.

26 In order to avoid the costs and uncertainties of litigation, CALRECYCLE and  
27 RESPONDENT hereby stipulate to the following Factual Findings, Conclusions of Law,  
28 and Order:

1  
2 **STIPULATED FACTUAL FINDINGS**

3 1. The Administrative Complaint was executed by Heather L. Hunt, Staff  
4 Counsel III, CALRECYCLE, acting in her official capacity.

5 2. CALRECYCLE has the authority to regulate and conduct enforcement  
6 actions regarding Waste Tire Haulers (haulers) within the State of California under PRC  
7 section 42950 et seq. and attendant regulations contained in Title 14 of the California  
8 Code of Regulations (CCR).

9 3. RESPONDENT has been a registered hauler since August 1998.  
10 RESPONDENT'S current registration expires on December 31, 2011.

11 4. RESPONDENT operates a tire-related business from various locations  
12 throughout California, including the following: 4660 Ruffner Street, San Diego, California  
13 92111; 5960 Shull Street, Bell Gardens, California 90201; 16350 South D Street,  
14 Victorville, California 92392; 115 Union Avenue, Bakersfield, California 93307.

15 5. RESPONDENT was provided instruction regarding the proper completion,  
16 retention, and delivery of California Uniform Waste and Used Tire Manifests, also  
17 known as Comprehensive Trip Logs (CTLs) via an e-mail dated August 29, 2009, from  
18 Michael Payan, Integrated Waste Management Specialist, to Doug St. Onge, Manager  
19 for RESPONDENT.

20 6. During an inspection on September 29, 2009, by Christine Buchanan and  
21 Daron Warkentin, Local Enforcement Grantees for CALRECYCLE from the City of San  
22 Diego, of RESPONDENT's 4660 Ruffner Street facility, and documented in Waste Tire  
23 Survey and Inspection Report (Inspection Report) number I1-1092272, Ms. Buchanan  
24 observed a truck with California license plate number 8H39557 transporting more than  
25 10 waste or used tires. The truck did not have a CALRECYCLE waste/used tire hauler  
26 registration and decal as required by PRC section 42951. The truck was registered  
27 through the California Department of Motor Vehicles to RESPONDENT.  
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1           7.       During an inspection on February 8, 2010, by Vance Tracy, Integrated  
2 Waste Management Specialist for CALRECYCLE, and documented in Inspection  
3 Report number I5-1058181, Mr. Tracy discovered 10 CTLs for waste tire pick-ups dated  
4 between September 18, 2009, and December 11, 2009, that had not been submitted to  
5 CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As  
6 of the date of filing of the Administrative Complaint, the same CTLs listed below have  
7 not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3520815-B	9/18/09	12/17/09	10	City of Indio
3520812-A	9/22/09	12/21/09	4	City of Indio
3520823-A	9/25/09	12/24/09	0.15	City of Indio
3520812-B	9/29/09	12/28/09	3	City of Indio
3520811-A	10/1/09	12/30/09	7	City of Indio
3520829-A	10/9/09	1/7/10	6	City of Indio
3729200-B	10/16/09	1/14/10	4	City of Indio
3729206-B	10/22/09	1/20/10	8	City of Indio
3520828-B	11/4/09	2/2/10	9	City of Indio
3729216-A	12/11/09	3/11/10	9	City of Indio

15           8.       On April 1, 2010, Joseph Feliciano, Code Enforcement Officer for  
16 Riverside County, encountered a truck with VIN number 1GC5CXBGXAZ199488  
17 hauling 10 or more waste tires, as documented in Inspection Report number I1-  
18 1121730. The truck did not have a CALRECYCLE waste/used tire hauler registration  
19 and decal as required by PRC section 42951. The truck was registered through the  
20 California Department of Motor Vehicles to RESPONDENT.

21           9.       During an inspection of Estes Express Lane on May 10, 2010, by Vance  
22 Tracy, and documented in Inspection Report number I3-1066208, Mr. Tracy discovered  
23 5 CTLs for waste tire pick-ups dated between March 13, 2009, and February 2, 2010  
24 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and  
25 14 CCR section 18459.2.1. As of the date of filing of the Administrative Complaint, the  
26 same CTLs listed below have not been submitted to CALRECYCLE:

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CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3403247-B	03-13-09	6/11/09	34	Estes
3514061-B	05-29-09	8/27/09	26	Estes
3514096-C	06-03-09	9/1/09	45	Estes
3729327-A	11-10-09	2/8/10	29	Estes
3728813-A	02-02-10	5/3/10	40	Estes

10. During an inspection of C&R Express Lines on May 10, 2010, by Vance Tracy, and documented in Inspection Report number I6-1059024, Mr. Tracy discovered 2 CTLs for waste tire pick-ups dated April 28, 2009 and April 1, 2010 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As of the date of filing of the Administrative Complaint, the same CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3867000-A	04-01-10	6/30/10	10	C&R Express Lines
3514026-A	04-28-09	6/27/09	8	C&R Express Lines

11. During an inspection of American Medical Response on May 17, 2010, by Vance Tracy, and documented in Inspection Report number I2-1059037, Mr. Tracy discovered 6 CTLs for waste tire pick-ups dated June 17, 2009 through April 23, 2010 that had not been submitted to CALRECYCLE as required by PRC section 42961.5 and 14 CCR section 18459.2.1. As of the date of filing of the Administrative Complaint, the same CTLs listed below have not been submitted to CALRECYCLE:

CTL Number	Date	Required Submittal Date	Passenger Tire Equivalents	Pick-up Facility Name
3616937-B	06-17-09	9/15/09	4	American Medical Response
3866919-A	04-23-10	7/22/10	8	American Medical Response
3716141-B	09-08-09	12/7/09	6	American Medical Response

3616938-C	09-12-09	11/10/09	?	American Medical Response
3514269-A	07-16-09	10/14/09	13	American Medical Response
3728888-B	02-10-10	5/11/10	2	American Medical Response

**ALLEGATIONS OF PRIOR VIOLATIONS**

12. On March 4, 2009, CALRECYCLE issued a Decision and Order for penalties in the amount of \$1,500.00 against RESPONDENT for 31 violations of California's Tire Hauler Law between January 8, 2008 and December 10, 2008.

**STIPULATED CONCLUSIONS OF LAW**

13. The parties agree that the following violations of law occurred and are substantiated by the Stipulated Facts as written above:

- a. CALRECYCLE's authority to assess administrative penalties against RESPONDENT is set forth in Public Resources Code section 42850 and 14 CCR section 18429. CALRECYCLE's authority to deny the waste and used tire hauler registration is set forth in Public Resources Code section 42960.
- b. On at least one occasion RESPONDENT failed to comply with PRC section 42951(a), by engaging in the transportation of more than nine waste tires without holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without falling under a specific exemption listed in PRC section 42954.
- c. On at least one occasion RESPONDENT failed to comply with PRC section 42951(a), by engaging in the transportation of more than nine waste tires without holding a valid Waste Tire Hauler Registration issued by CALRECYCLE, and without falling into a specific exemption listed in PRC section 42954.

1 d. RESPONDENT failed to comply with PRC section 42961.5(c)(2) by  
2 failing to submit CTLs to CALRECYCLE on a quarterly schedule  
3 on 23 separate occasions from March 13, 2009, through April 23,  
4 2010,

5 e. RESPONDENT failed to comply with 14 CCR section 18459.2.1 by  
6 failing to submit CTLs to CALRECYCLE within 90 days of the load  
7 shipment on the same 23 separate occasions from March 13, 2009,  
8 through April 23, 2010.

9 **STIPULATED ORDER**

10 14. RESPONDENT and CALRECYCLE stipulate to the following terms and  
11 conditions in full and complete settlement of this matter:

12 a) Pursuant to the terms and conditions of this Stipulation, and subject to the  
13 limitations hereunder, RESPONDENT stipulates to an administrative penalty against  
14 RESPONDENT and in favor of CALRECYCLE in the sum of \$24,000 (twenty-four  
15 thousand dollars) for the alleged violations set forth in this Stipulation; provided,  
16 however, that \$13,500 (thirteen-thousand five-hundred dollars) of this administrative  
17 penalty will be suspended and stayed for a period of two (2) years. The stayed penalty  
18 will be deemed terminated and shall not be paid by RESPONDENT to CALRECYCLE  
19 following the two (2) year period absent a default as described below.

20 If RESPONDENT defaults on any of the terms set forth in paragraphs 15 through  
21 18 of this Stipulation during the two (2) year period subsequent to the issuance of the  
22 Administrative Decision, the stay will be lifted and RESPONDENT will owe  
23 CALRECYCLE up to the full stipulated administrative penalty of \$24,000 (twenty-four  
24 thousand dollars) less any payments already received by CALRECYCLE from  
25 RESPONDENT.

26 (b) RESPONDENT shall pay to CALRECYCLE the sum of \$10,500 (ten-  
27 thousand five-hundred dollars) on or before the 30<sup>th</sup> day after the Administrative  
28 Decision is issued in accordance with the following:

1 i) Payment shall be made to CALRECYCLE, Attn: Esther Gallegos, at  
2 P. O. Box 4025, Sacramento, CA 95812-4025, or to such other person  
3 and/or place as CALRECYCLE or its agent may from time to time  
4 designate in writing.

5 ii) If the payment by RESPONDENT hereunder is not mailed by  
6 RESPONDENT to said addressee by the due date, and if RESPONDENT  
7 fails to cure the missed payment(s) within 10 days of notice, this will  
8 constitute a default of this Stipulation.

9 15. RESPONDENT shall establish and name a compliance coordinator who  
10 shall serve as a point of contact for CALRECYCLE regarding all future training and  
11 enforcement. Said compliance coordinator shall ensure that all representatives and  
12 drivers for RESPONDENT are properly trained and internally audited to obtain  
13 compliance with California waste tire hauler laws.

14 16. Said compliance coordinator referenced in paragraph 15 of this Stipulation  
15 shall attend training regarding California waste tire hauler laws, requirements, and  
16 procedures, from a staff member designated by CALRECYCLE, on or before February  
17 1, 2012. Said training may take place in southern California if CALRECYCLE  
18 possesses a budget which allows for travel to southern California from Sacramento, at a  
19 time convenient to the staff member traveling. If it is not possible for a CALRECYCLE  
20 staff member to travel in accordance with the preceding terms, it shall be the  
21 compliance coordinator's responsibility to travel to Sacramento to attend the training.

22 17. RESPONDENT shall comply with all of the California Waste and Used  
23 Tire Registration and Manifest requirements, as provided in PRC section 42961.5 and  
24 14 CCR section 18449 et seq. RESPONDENT shall maintain a manifest error rate of  
25 less than seven percent (7%).

26 18. RESPONDENT shall comply with all of the California Tire Storage  
27 Requirements, as provided in PRC section 42800 et seq. and 14 CCR section 17350 et  
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1 seq. and 14 CCR section 18420 et seq. RESPONDENT shall not store waste tires in an  
2 amount of 500 or more on any property owned or leased by RESPONDENT without  
3 obtaining the required permit. RESPONDENT also shall store used tires in the manner  
4 prescribed by the PRC and Title 14 of the California Code of Regulations.

5 19. Upon presentation of proper credentials, CALRECYCLE staff, or an  
6 authorized agent of CALRECYCLE, shall be allowed to enter RESPONDENT's place of  
7 business during regular business hours, without prior notice, to conduct inspections and  
8 investigations of the premises, to examine and copy tire manifests, and to take  
9 photographs of any and all tires on the premises. RESPONDENT shall permit free and  
10 ready access to business records pertaining to the storage or hauling of used and waste  
11 tires. The purpose of any such inspection shall be to verify that RESPONDENT is in  
12 current compliance with all applicable laws, rules and regulations governing waste tire  
13 haulers.  
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15 20. Default: If RESPONDENT defaults under the terms of this Stipulation,  
16 including the terms at paragraph 15 through 18 of this Stipulation, then CALRECYCLE  
17 shall send RESPONDENT a letter, by U.S. mail, as Notice of Default. Said letter shall  
18 apprise RESPONDENT of the provision(s) of the Stipulation of which it is in default, and  
19 will attach a copy of the Inspection Report or other report, if any, documenting the  
20 violation(s) in issue. RESPONDENT shall have twenty (20) days from the date of the  
21 letter to provide evidence to CALRECYCLE that no default of this Stipulation took place.  
22 After reviewing the evidence set forth by RESPONDENT, CALRECYCLE staff shall  
23 make a determination as to whether or not a default of the Stipulation occurred. Within  
24 30 days of the Staff determination of default, RESPONDENT is entitled to appeal to  
25 CALRECYCLE's Director or his designee. The Director's decision as to whether there  
26 is a default of the Stipulation is the final decision.  
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1           21. No covenant, promise, term, condition, breach or default of or under this  
2 Stipulation shall be deemed to have been waived except as expressly so stated in  
3 writing by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by  
4 RESPONDENT under this Stipulation shall not be deemed a waiver of any preceding or  
5 subsequent breach or default by RESPONDENT.

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

15           23. Except as expressly provided herein, RESPONDENT waives the right in  
16 the entitled matter to a hearing, any and all appeals and any and all rights that may be  
17 afforded pursuant to the Public Resources Code, the Administrative Procedure Act, or  
18 any other provision of law regarding the express provisions of this Stipulation.

19           24. This Stipulation shall be binding and inure to the benefit of the successors,  
20 heirs and assigns of the respective parties hereto.

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

3 26. For purposes of this Stipulation, facsimile signatures will be treated as  
4 originals until the applicable page(s) bearing non-facsimile signatures have been  
5 received by the parties.

6 27. The effective date of this STIPULATION FOR ISSUANCE OF  
7 ADMINISTRATIVE DECISION is the date of issuance of the ADMINISTRATIVE  
8 DECISION.

9  
10 Dated: 7/19/2011

  
LORRAINE VAN KERKERIX  
Acting Deputy Director  
DEPARTMENT OF RESOURCES,  
RECYCLING AND RECOVERY  
(CALRECYCLE)

11  
12  
13  
14  
15 Dated: 7-19-11

  
HEATHER L. HUNT  
Staff Counsel III  
DEPARTMENT OF RESOURCES,  
RECYCLING AND RECOVERY  
(CALRECYCLE)

16  
17  
18  
19  
20 Dated: 7/18/11

  
BRIAN PARKHOUSE  
President  
PARKHOUSE TIRE SERVICE, INC.  
RESPONDENT