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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

11 In the matter of:

12 CALIFORNIA STATE UNIVERSITY/LONG
13 BEACH FOUNDATION, PROPERTY
14 OWNER and TIRE CORE
15 INTERNATIONAL LTD, OPERATOR

16 TPID NO: 1605057

17 RESPONDENTS.
18

ADMINISTRATIVE DECISION
PURSUANT TO STIPULATION FOR
WASTE TIRE STORAGE
ADMINISTRATIVE PENALTIES

AGENCY NO: 291-000059-ADA

OAH NO: 2011-100841

19 **INTRODUCTION**

20 The California Department of Resources Recycling and Recovery (CALRECYCLE)
21 has authority to regulate and conduct enforcement actions regarding Waste Tire Haulers
22 and Waste Tire Facilities within the State of California under Public Resources Code (PRC)
23 sections 42850 et seq. and 42962 et seq., and attendant regulations contained in 14
24 California Code of Regulations (CCR).

25 This Administrative Decision Pursuant to Stipulation For Waste Tire Storage
26 Administrative Penalties is based on the Stipulation for Issuance of Administrative Decision
27 for Waste Tire Storage Administrative Penalties (Stipulation) signed by GARRY
28 DRISDELLE, CHIEF EXECUTIVE OFFICER, FOR TIRE CORE INTERNATIONAL LTD.,

1 OPERATOR (RESPONDENT) on June 14, 2012, and BRIAN NOWLIN, CHIEF
2 OPERATING OFFICER, FOR CALIFORNIA STATE UNIVERSITY, LONG BEACH
3 FOUNDATION, PROPERTY OWNER, (RESPONDENT) signed on June 4, 2012.

4 The Administrative Complaint For Waste Tire Storage Administrative Penalties
5 (Administrative Complaint) was issued to RESPONDENT TIRE CORE INTERNATIONAL
6 LTD., OPERATOR on September 8,, 2011, and CALIFORNIA STATE UNIVERSITY, LONG
7 BEACH FOUNDATION, PROPERTY OWNER on or about September 2, 2011.
8 RESPONDENT TIRE CORE INTERNATIONAL LTD., OPERATOR requested a hearing on
9 September 16, 2011, and RESPONDENT CALIFORNIA STATE UNIVERSITY, LONG
10 BEACH FOUNDATION, PROPERTY OWNER requested a hearing on September 30,
11 2012. A hearing was scheduled for July 5, 2012, in Los Angeles, California.

12 Pursuant to the Stipulation, and good cause appearing therefore, the following
13 Stipulated Factual Findings and Legal Conclusions are made, and the following Order is
14 issued:

15
16 **STIPULATED FACTUAL FINDINGS**
17

18 1. During the time between August, 2010, and June 21, 2011, RESPONDENT
19 TIRE CORE allowed waste tires to be illegally stored at 2130 Technology Place, Long
20 Beach, California 90810 (the site).

21 2. At no time between August, 2010, and June 21, 2011, was RESPONDENT
22 TIRE CORE in possession of a Major or a Minor WTF Permit for the site.

23 3. On four (4) separate occasions between August 30, 2010, and January 5,
24 2011, Mike Edenedo, Waste Tire Grantee for the County of Los Angeles, inspected the
25 site. During each inspection Mr. Edenedo observed at least 8,000 waste tires onsite, in
26 violation of PRC section 42824 and 14 CCR section 18420.

27 4. During a follow-up inspection of the site on January 19, 2011, and
28 documented in Waste Tire Survey and Inspection Report (Inspection Report) number

1 I1-1117584, Steven Dolan, Inspector for CALRECYCLE's Compliance and Enforcement
2 Division, observed 6,913 waste tires onsite, in violation of PRC section 42824 and 14 CCR
3 section 18420.

4 5. On or about January, 2011, H. James Lee, Jr., Supervisor for
5 CALRECYCLE's Compliance and Enforcement Division spoke with a representative for
6 RESPONDENT TIRE CORE, Terry Leveille, and the then-general manager for
7 RESPONDENT TIRE CORE, Mr. Richards. Mr. Leveille and Mr. Richards expressed
8 concerns regarding Inspectors Edenedo and Dolan having found RESPONDENT TIRE
9 CORE in violation of California's Waste Tire Laws. Mr. Leveille and Mr. Richards explained
10 to Mr. Lee that RESPONDENT TIRE CORE's business model was to acquire and sell tire
11 casings. At that time, Mr. Lee advised Mr. Richards and Mr. Leveille that the tire casings
12 described by Mr. Richards and Mr. Leveille met the definition of a waste tire, and that the
13 site, therefore, operated as a waste tire facility that potentially required a permit.

14 6. During the same discussion referenced in paragraph 7 of the Stipulation, Mr.
15 Lee advised Mr. Richards and Mr. Leveille, that, because the site operated as a WTF,
16 RESPONDENT TIRE CORE needed to bring the waste tire count down to 499 or less until
17 a permit was issued, or bring the site into operation as a collection facility, as that process
18 is defined in 14 CCR section 17225.717. Mr. Lee further advised Mr. Richards and Mr.
19 Leveille that in order to operate as a collection facility all of the waste tires on site would
20 need to be stored in closed, road-worthy containers, in accordance with 14 CCR section
21 17225.717.

22 7. On March 29, 2011, during an inspection of the site, and documented in
23 Inspection Report number I1-116808, Inspector Edenedo observed 3,500 waste tires, in
24 violation of PRC section 42834 and 14 CCR section 18420.

25 8. On April 5, 2011, Inspector Dolan inspected the site for the purpose of
26 reminding and ensuring RESPONDENT TIRE CORE to maintain a waste tire count of 499
27 or less until it obtained a WTF Permit. Mr. Dolan documented in Inspection Report number
28 I1-1117534 that he observed 4,000 waste tires onsite in violation of PRC section 42834

1 and 14 CCR section 18420. During the inspection, Mr. Dolan again reminded
2 RESPONDENT TIRE CORE that it was limited to storing only 499 or less waste tires onsite
3 until it obtained a WTF Permit.

4 9. On or about the time period from May, 2011, through June 6, 2011,
5 CALRECYCLE and RESPONDENT TIRE CORE negotiated a resolution to the issues
6 presented by the violations at the site. During that time period, multiple discussions were
7 had between Mr. Lee and Mr. Leveille regarding the positions of both CALRECYCLE and
8 RESPONDENT TIRE CORE. In the course of those negotiations, RESPONDENT TIRE
9 CORE represented that it would concede to CALRECYCLE's determination that the tires
10 onsite were waste tires, that it would be able to maintain a waste tire count of 4,999 or less,
11 and that it would ensure that that target number of 4,999 or less would be reached by June
12 6, 2011. CALRECYCLE agreed to allow RESPONDENT TIRE CORE to maintain a total
13 tire count, which included all waste and used tires onsite, of 4,999 or less, provided that
14 RESPONDENT TIRE CORE submit a Minor WTF Permit Application. The resolution was
15 memorialized in Cease And Desist Order 2011-010990-CAO (CAO).

16 10. On June 10, 2011, the CAO was served on RESPONDENT TIRE CORE. For
17 all intents and purposes, the CAO operated as a Clean Up and Abatement CAO pursuant
18 to PRC section 42854. The CAO required RESPONDENT TIRE CORE, pursuant to PRC
19 section 42854, and "whereas RESPONDENT TIRE CORE [had] submitted a complete
20 application for a Minor WTF Permit, and [had] indicated that [it had] reduced the number of
21 tires on-site to 4,999 or less by June 6, 2011," RESPONDENT TIRE CORE was required to
22 "[i]mmediately reduce the total number of tires on-site to 4,999, or less by June 6, 2011,
23 and continue to store less than 4,999 tires on site."

24 11. On June 21, 2011, Rob Baumann, Inspector for CALRECYCLE's
25 Enforcement and Compliance Division, conducted a follow-up inspection of the site. Mr.
26 Baumann documented in Inspection Report number I1-1166786 that he observed 5,778
27 waste tires onsite, in violation of the CAO, PRC section 42824, and 14 CCR section 18420.

28 ///

1 Stipulation:

2 (a) Pursuant to the terms and conditions of the Stipulation, and subject to the
3 limitations hereunder, RESPONDENT TIRE CORE is ordered to pay an administrative
4 penalty against RESPONDENTS and in favor of CALRECYCLE in the sum of twenty two
5 thousand dollars (\$22,000.00) for the violations set forth in the Stipulation. Payment of the
6 penalty shall be satisfied in the following manner:

7 i) RESPONDENT TIRE CORE shall pay ten thousand dollars
8 (\$10,000.00) to CALRECYCLE in accordance with the following:

- 9 1. RESPONDENT TIRE CORE shall pay to CALRECYCLE the
10 sum of twenty five hundred dollars (\$2,500.00) by June 30,
11 2012.
- 12 2. RESPONDENT TIRE CORE shall make quarterly payments to
13 CALRECYCLE of twenty five hundred dollars (\$2,500.00) until
14 the total amount of said payments, together with the initial
15 twenty five hundred dollar (\$2,500.00) payment, totals ten
16 thousand dollars (\$10,000.00).
- 17 3. All payments shall be made to CALRECYCLE, Attn: Esther
18 Gallegos, at P. O. Box 4025, Sacramento, CA
19 95812-4025, or to such other person and/or place as
20 CALRECYCLE or its agent may from time to time designate in
21 writing.
- 22 4. If any payment by RESPONDENT TIRE CORE hereunder is not
23 mailed by RESPONDENT TIRE CORE to said addressee by the
24 due date, or a date later issued by CALRECYCLE, and if
25 RESPONDENT TIRE CORE fails to cure the missed payment(s)
26 within twenty (20) days of said missed payment, RESPONDENT
27 TIRE CORE shall be found in partial default of the stipulation.

28 ii) Twelve thousand dollars (\$12,000.00 dollars) of this administrative

1 penalty shall be suspended and stayed for a period of three (3) years. The stayed penalty
2 shall be deemed terminated and shall not be paid by RESPONDENT TIRE CORE to
3 CALRECYCLE following the three-year period absent a default as described below.

4 (b) RESPONDENT TIRE CORE shall comply with all waste tire laws set forth in
5 the Public Resources Code section 42800 et seq., waste tire hauler laws set forth in Public
6 Resources Code section 42950 et seq., and attendant regulations in Title 14 of the
7 California Code of Regulations.

8 (c) RESPONDENT TIRE CORE shall not open or operate any other new WTF at
9 any location without first obtaining the appropriate WTF permit from CALRECYCLE.

10 (d) RESPONDENT TIRE CORE shall abide by all terms set forth in WTF Permit
11 Number 1605057; failure to maintain the waste tire count set forth in WTF Permit Number
12 1605057 shall constitute a full default and the full remaining amount of twelve thousand
13 dollars (\$12,000.00), less any amount already paid to CALRECYCLE, shall become
14 immediately due and payable.

15 (e) At any time during the abeyance period, if CALRECYCLE determines that
16 RESPONDENT TIRE CORE has violated any waste tire laws, waste tire hauler laws, or the
17 terms set forth in WTF Permit number 1605057, CALRECYCLE shall inspect the site at an
18 increased frequency of at least monthly, until RESPONDENT TIRE CORE
19 remedies the new violations and brings the site into compliance. RESPONDENT TIRE
20 CORE shall grant CALRECYCLE inspectors, or any agent designated by CALRECYCLE,
21 access to the site for the purpose of conducting these additional
22 inspections and RESPONDENT TIRE CORE shall reimburse CALRECYCLE for the cost of
23 these additional inspections (including costs for the time spent preparing for the inspection,
24 traveling to the site, and preparing and writing any Inspection Report). Additionally, after
25 compliance has again been regained, CALRECYCLE shall inspect the site twice a year for
26 the remainder of the abeyance period, and RESPONDENT TIRE CORE shall reimburse
27 CALRECYCLE for the costs of these additional inspections (including costs for the time
28 spent preparing for the inspection, traveling to the site, and preparing and writing any

1 Inspection Report).

2 i. Failure to grant access to inspectors or agents designated by
3 CALRECYCLE, or failure to reimburse CALRECYCLE for the costs of an additional
4 inspection within 30 days of an invoice shall be deemed a default of this Stipulation.

5 ii. The cost of the additional inspections shall be billed at the rate
6 approved by CALRECYCLE's accounting and budgets offices for enforcement agent
7 inspections for that fiscal year.

8 (f) Unless otherwise specified in the subsections above, failure to comply with
9 any of the above terms shall constitute a partial default of this Stipulation and the abeyance
10 amount determined by CALRECYCLE shall become immediately due and payable by
11 RESPONDENT TIRE CORE INTERNATIONAL LTD.

12 i. CALRECYCLE shall base any abeyance amount due on the penalty
13 amounts set forth in PRC sections 42850, 42850.1, 42962, and 14 CCR sections 18429
14 and 18464, taking into account the nature, circumstances, extent and
15 gravity of the partial default.

16 ii. If RESPONDENT TIRE CORE INTERNATIONAL LTD is ordered to
17 pay a partial default fine and fails to do so within 30 days, the failure shall constitute a full
18 default and the remaining abeyance amount of twelve thousand dollars (\$12,000.00), less
19 any amount already paid to CALRECYCLE, shall become immediately due and payable.

20 13. Default: If RESPONDENT TIRE CORE INTERNATIONAL LTD defaults
21 under any of the terms of this Stipulation, CALRECYCLE shall send a Notice of Default to
22 RESPONDENT TIRE CORE INTERNATIONAL LTD; said Notice of Default shall state the
23 paragraphs or provisions of this Stipulation of which RESPONDENT TIRE CORE
24 INTERNATIONAL LTD is in default and the abeyance amount owed. RESPONDENT TIRE
25 CORE INTERNATIONAL LTD shall have fifteen (15) days from the date of the issuance of
26 the Notice of Default to provide evidence refuting CALRECYCLE's claim of default. After a
27 review of the evidence provided by RESPONDENT TIRE CORE INTERNATIONAL LTD,
28 CALRECYCLE shall make a determination regarding the default and, if appropriate, shall

1 issue a Supplemental Decision regarding any remaining penalties due. RESPONDENT
2 TIRE CORE INTERNATIONAL LTD may appeal CALRECYCLE's determination and
3 subsequent Supplemental Decision within thirty (30) days of the issuance of the
4 Supplemental Decision; any such appeal shall be heard by CALRECYCLE's Director, or an
5 agent designated by the Director.

6 14. RESPONDENT CSU LONG BEACH FOUNDATION is hereby released from
7 any and all liability arising out of the violations stated in paragraphs 14 through 17 of the
8 Stipulation and based on the specific facts set forth in paragraphs 1 through 13 of the
9 Stipulation. However, nothing prohibits CALRECYCLE or an Administrative Law Judge
10 from holding RESPONDENT CSU LONG BEACH FOUNDATION liable for any future
11 violations of the PRC or its attendant regulations that arise out of facts that occur at any
12 future date at the site.

13
14 The DECISION shall become effective as of the date signed below:

15
16 Dated this 22 day of June, 2012.

17
18 
19 _____
20 MARK DE BIE
21 Deputy Director
22 DEPARTMENT OF RESOURCES,
23 RECYCLING AND RECOVERY
24 (CALRECYCLE)
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