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8  
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:	}	STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES, PUBLIC RESOURCES CODE SECTION 42960
12 NORMAN L. MEEK OWNER and NORMAN		
13 L. MEEK DBA SO. CAL TIRE RECYCLING,		
14 INC., OPERATOR		
15 TPID NO: 1000139		
16 RESPONDENT		AGENCY NO: 2010-000048-ADA OAH NO: 2011-060816

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20 **INTRODUCTION**

21 The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE  
22 DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (Stipulation)  
23 are the Department of Resources, Recycling and Recovery (CALRECYCLE) and  
24 NORMAN L. MEEK, OWNER and NORMAN L. MEEK DBA SO. CAL TIRE  
25 RECYCLING, INC., OPERATOR (RESPONDENTS). The California Integrated Waste  
26 Management Board (CIWMB) is now Department of Resources Recycling and  
27 Recovery (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on  
28 January 1, 2010, pursuant to PRC section 40401(a)(1). The ADMINISTRATIVE

1 COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES  
2 (Administrative Complaint) was served on May 24, 2011, on RESPONDENTS.  
3 RESPONDENTS requested a hearing on June 6, 2011. A hearing was scheduled for  
4 February 8<sup>th</sup> and 9<sup>th</sup>, 2012, in San Diego, California.

5 In order to avoid the costs and uncertainties of litigation, CALRECYCLE and  
6 RESPONDENTS hereby stipulate to the following Factual Findings, Conclusions of  
7 Law, and Order:

8 **STIPULATED FACTUAL FINDINGS**

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

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

15 3. On October 6, 2005, the CIWMB issued WTF Permit number 13-TI-0147  
16 (permit) allowing RESPONDENTS to operate a minor WTF at 600 South L Street,  
17 Imperial CA 92251 (the site). According to the terms of the permit, RESPONDENTS  
18 were required to comply with applicable waste tire storage and disposal standards  
19 contained in 14 CCR Division 7, Chapter 3, permitting requirements contained in 14  
20 CCR Division 7, Chapter 6, local fire prevention requirements, as set forth by the local  
21 fire control authority, and vector standards. The terms of the permit also required  
22 RESPONDENTS to maintain a copy of RESPONDENTS' Emergency Response Plan,  
23 and fire and vector permits and approvals issued by the local authority onsite.  
24 Additionally, according to the terms of the permit, and pursuant to 14 CCR section  
25 18426, the permit would expire on October 6, 2010, and any renewal application would  
26 need to be submitted to CIWMB on or before September 2, 2009.

27 4. During the time period from October 6, 2005, to May 9, 2010,  
28 RESPONDENTS were never in possession of a valid major WTF Permit.

1           5.       During an inspection of the site on October 11, 2007, and documented in  
2 Inspection Report number I6-1075491, by Daniel Silva, inspector for Imperial County  
3 Division of Environmental Health, in conjunction with the Imperial County Deputy Fire  
4 Marshall, Johnny M. Romero, RESPONDENTS were issued a Notice of Violation (NOV)  
5 with a compliance deadline of November 11, 2007, for failing to post their Trip Program  
6 Identification Destination number onsite, and for failing to comply with local fire safety  
7 standards, in violation of the permit and 14 CCR section 17351.

8           6.       On November 18, 2008, Mr. Romero sent a letter to RESPONDENTS  
9 requiring them to remedy ongoing fire safety issues within 30 days of receipt of said  
10 letter; specifically the correspondence requested that RESPONDENTS address the  
11 following: RESPONDENTS' failure to test and maintain fire extinguishers and fire  
12 sprinklers and hose; RESPONDENTS' storage of tires in the east end of the main  
13 building; RESPONDENTS' failure to remove or park all equipment and vehicles orderly  
14 in a designated area; RESPONDENTS' failure to comply with the 2007 California Fire  
15 Code and NFPA Standards pertaining to tires stored indoors; RESPONDENTS' failure  
16 to comply with the 2007 California Fire Code and NFPA Standards pertaining to tires  
17 stored outdoors; RESPONDENTS' failure to maintain designated Fire Lanes at a  
18 minimum of 20 feet wide and accessible at all times.

19           7.       During an inspection of the site on April 2, 2009, and documented in  
20 Inspection Report number I6-1068537, Mr. Silva issued a NOV to RESPONDENTS,  
21 because he observed 27,000 waste tires on the site, in violation of the permit, and  
22 creating an unpermitted major WTF, in violation of PRC section 42824. Mr. Silva further  
23 found that RESPONDENTS failed to update their Emergency Response Plan, in  
24 violation of the permit and PRC section 42850; failed to store tires in a warehouse that  
25 had proper fire equipment or adequate water supply, in violation of 14 CCR section  
26 17351; failed to maintain and provide to Mr. Silva a copy of the operational plan for the  
27 facility, in violation of the permit and 14 CCR section 18432; and failed to comply with  
28 local fire control authority standards as documented in the letter issued to

1 RESPONDENTS on November 18, 2008, and referenced in Paragraph 6 of this  
2 Administrative Complaint, in violation of the permit and 14 CCR section 17350 et. seq..

3 8. On May 14, 2009, Mr. Silva submitted a referral package to the CIWMB,  
4 advising CIWMB that RESPONDENTS continued to store over 4999 waste tires at the  
5 facility without having a major WTF Permit and in violation of the existing minor WTF  
6 Permit, as well as continuing to violate the requirements of the local fire control  
7 authority, the permit, and 14 CCR section 17350 et. seq.

8 9. During an inspection on August 26, 2009, and documented in Inspection  
9 Report number I6-1058133, Vance Tracy, Inspector for the Waste Tire and Enforcement  
10 Division of the CIWMB, observed 16,241 waste tires at the site in violation of the permit,  
11 and thereby creating an unpermitted major WTF in violation of PRC section 42824. Mr.  
12 Tracy further found that RESPONDENTS failed to store tires in a building that had a  
13 sprinkler system with adequate water supply, in violation of 14 CCR sections 17351 and  
14 local fire control authority requirements, as well as in violation of 14CCR sections  
15 17354, and 17356.

16 10. On January 28, 2010, CALRECYCLE issued Cleanup and Abatement  
17 Order number 2009-010984-CAO (CAO) on RESPONDENTS. The CAO required  
18 RESPONDENTS to reduce the number of waste tires stored on the site to 4,999 or less.  
19 The CAO further required RESPONDENTS to cease and desist from creating illegal  
20 WTFs and to comply with "Local Fire Control Authority Requirements for all used and  
21 waste tires." The CAO further required RESPONDENTS to submit a complete renewal  
22 application within 60 days of the date of the CAO if RESPONDENTS wished to renew  
23 the permit.

24 11. On February 4, 2010, Linda Garza, office assistant for RESPONDENTS,  
25 contacted CALRECYCLE via telephone and spoke with Megan Fisher, of  
26 CALRECYCLE. Ms. Garza advised CALRECYCLE that RESPONDENTS had received  
27 the CAO and requested assistance in understanding the terms contained therein; Ms.  
28 Fisher reiterated the terms of the CAO, advising Ms. Garza that RESPONDENTS were

1 required to remove tires on the property in excess of 4,999, and to bring operations into  
2 compliance with state minimum standards, permit requirements, and local fire safety  
3 standards. During the same telephone call, Ms. Fisher spoke to RESPONDENT  
4 NORMAN L. MEEK; RESPONDENT NORMAN L. MEEK advised Ms. Fisher that a  
5 plumber had attempted to rectify the fire safety issue, but the issue was unlikely to be  
6 resolved. RESPONDENT NORMAN L. MEEK further advised Ms. Fisher that he would  
7 be unable to afford a sprinkler system as requested by the local fire control authority.

8 12. On February 17, 2010, Mr. Tracy spoke with RESPONDENT NORMAN L.  
9 MEEK via telephone. During that telephone conversation RESPONDENT NORMAN L.  
10 MEEK stated that RESPONDENT NORMAN L. MEEK had removed waste tires from  
11 the property. Mr. Tracy again advised RESPONDENTS of the requirement to comply  
12 with local fire authority standards. RESPONDENT NORMAL L. MEEK advised Mr.  
13 Tracy that RESPONDENT NORMAN L. MEEK was considering filing a law suit against  
14 the local fire control authority for the actions they were taking against him.

15 13. During an inspection of the site on March 9, 2010, and documented in  
16 Inspection Report number 15-1058529, Mr. Tracy observed waste tires being stored in a  
17 facility that did not have an adequate water supply and waste tires being stored in too  
18 close a proximity to fire hazards, in violation of local fire control authority prevention  
19 requirements, the permit and 14 CCR sections 17351 and 17354. Mr. Tracy further  
20 observed rain water accumulating in waste tires stored onsite, in violation of vector  
21 control requirements as set forth in the permit and 14 CCR section 17353(a). Mr. Tracy  
22 granted RESPONDENTS an extension to comply with the CAO through May 9, 2010.

23 14. On June 1, 2010, Juan Rodelo, Jr., of the Imperial County Fire  
24 Department, issued a Notice of Violation/Notice to Comply to RESPONDENTS requiring  
25 RESPONDENTS to comply with the 2007 California Fire code of NFPA Sections 1,13,  
26 101, 221, 230 and 5000 by August 31, 2010. Said Notice specifically required  
27 RESPONDENTS to meet requirements pertaining to fire extinguishers, indoor tire pile  
28 dimensions, fire evacuation/safety plan, outdoor tire pile dimensions, tire pile

1 separation, distance measurements between tire piles and other stored products,  
2 distance measurements between tire piles and lit lines and buildings, storage of tire  
3 piles whose volume exceeds 150,000 cubic feet, location of tire piles, gate access to the  
4 WTF, automatic fire extinguishing system requirements, tire storage in trailers, a  
5 Conditional Use Permit issued to RESPONDENTS by the City of Imperial, structures'  
6 compliance with current codes and regulations, all work at the WTF performed by  
7 licensed contractors and submitted the City of Imperial of approval.

8 15. During an inspection of the site on June 8, 2010, and documented in  
9 Inspection Report number I1-1134648, Mr. Tracy, again observed that RESPONDENTS  
10 continued to store tires in a location that did not have adequate water supply and failed  
11 to provide a "current and valid" fire control plan, in violation of local fire authority control  
12 requirements, the permit, and 14 CCR sections 17351 and 17354. Also during the  
13 inspection, RESPONDENTS failed to provide Mr. Tracy with specific documents,  
14 including but not limited to an approved vector control plan, in violation of the permit and  
15 14 CCR section 18447.

16 16. On September 1, 2010, Jorge Galvan, Planning Manager for the City of  
17 Imperial, issued a NOV to RESPONDENTS, for failing to maintain a valid business  
18 license from the City, and to cease and desist all operations immediately. The Notice of  
19 Violation further notified RESPONDENTS that the City could not issue a business  
20 license to RESPONDENTS until prior violations had been remedied.

21 17. On October 1, 2010, CALRECYCLE received renewal application forms  
22 from RESPONDENTS requesting a renewal of RESONDENT SO. CAL TIRE  
23 RECYCLING, INC.'s permit. CALRECYCLE deemed the application a new application,  
24 because the deadline for submitting a renewal application had passed. Moreover, upon  
25 review, CALRECYCLE deemed the application submission to be incomplete.

26 18. On October 6, 2010, RESPONDENTS' permit expired pursuant to the  
27 terms stated within the permit and 14 CCR section 18426(a).

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1 control plan for the WTF approved by the Imperial County Vector Control District.

2 24. RESPONDENTS violated 14 CCR section 17354 on at least three (3)  
3 separate occasions by failing to store waste tires in a manner consistent with outdoor  
4 tire storage requirements.

5 25. RESPONDENTS violated 14 CCR section 17356 on at least two (2)  
6 separate occasions by failing to store waste tires in a manner consistent with indoor  
7 storage requirements.

8 26. RESPONDENTS violated PRC section 42824 on at least two (2) separate  
9 occasions by creating a major WTF without first possessing a permit.

10 27. RESPONDENTS violated PRC section 18420 on at least six (6) separate  
11 occasions by failing to comply with the terms of the permit.

12 28. RESPONDENTS violated 14 CCR section 18447 on at least two (2)  
13 separate occasions by failing to retain required records onsite for three (3) years.

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15 **STIPULATED ORDER**

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17 29. RESPONDENTS and CALRECYCLE stipulate to the following terms and  
18 conditions in full and complete settlement of this matter:

19 (a) Pursuant to the terms and conditions of this Stipulation, and subject to the  
20 limitations hereunder, RESPONDENTS stipulate to an administrative penalty against  
21 RESPONDENTS and in favor of CALRECYCLE in the sum of two hundred fifty seven  
22 thousand dollars (\$257,000.00) for the violations set forth in this Stipulation. Payment  
23 of the penalty shall be satisfied in the following manner:

- 24 i) RESPONDENTS shall pay twenty five thousand dollars  
25 (\$25,000.00) to CALRECYCLE in accordance with the following:

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- 1                   1. RESPONDENTS shall pay to CALRECYCLE the sum of  
2                   ten thousand dollars (\$10,000,00) on or before the 30<sup>th</sup>  
3                   day after the corresponding Administrative Decision is  
4                   issued, and
- 5                   2. RESPONDENTS shall make monthly payments to  
6                   CALRECYCLE of four hundred dollars (\$400.00) until the  
7                   total amount of said payments together with the ten  
8                   thousand dollars (\$10,000,00) set forth in subparagraph  
9                   (a)(i)(1) equals twenty five thousand dollars (\$25,000.00).
- 10                  3. All payments shall be made to CALRECYCLE, Attn:  
11                  Esther Gallegos, at P. O. Box 4025, Sacramento, CA  
12                  95812-4025, or to such other person and/or place as  
13                  CALRECYCLE or its agent may from time to time  
14                  designate in writing.
- 15                  4. If any payment by RESPONDENTS hereunder are not  
16                  mailed by RESPONDENTS to said addressee by the due  
17                  date, or a date later issued by CALRECYCLE, and if  
18                  RESPONDENTS fail to cure the missed payment(s)  
19                  within 20 days of said missed payment, RESPONDENTS  
20                  shall be found in partial default of the stipulation.

21                  ii)       Two hundred thirty two thousand dollars (\$ 232,000.00 dollars) of  
22                  this administrative penalty shall be suspended and stayed for a  
23                  period of five (5) years. The stayed penalty shall be deemed  
24                  terminated and shall not be paid by RESPONDENTS to  
25                  CALRECYCLE following the five-year period absent a default as  
26                  described below.

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1           iii) If RESPONDENTS default on any of the terms set forth in this  
2           Stipulation during the five-year period subsequent to the issuance  
3           of the corresponding Administrative Decision, the stay shall be lifted  
4           and RESPONDENTS shall immediately owe CALRECYCLE either  
5           all or part of the stipulated administrative penalty of two hundred  
6           fifty seven thousand dollars (\$257,000.00) less any of that amount  
7           already paid to CALRECYCLE.

8           iv) If RESPONDENTS fail to make consecutive monthly payments for  
9           a three-month period, or fail to pay any amount immediately due  
10          arising from a full or partial default of this Stipulation,  
11          CALRECYCLE shall collect on the hauler bond currently issued to  
12          either RESPONDENT NORMAN L. MEEK, or RESPONDENT SO.  
13          CAL TIRE RECYCLING, INC.

14          (b) RESPONDENTS shall, within thirty (30) days of the issuance of the  
15          corresponding Administrative Decision, grant an inspector for CALRECYCLE, or an  
16          agent thereof, access to the site to verify that no waste or used tires remain and that the  
17          site is closed;

18          (c) With regard to the 4099 McConnell Road, Brawley CA location,  
19          RESPONDENTS shall do one of the following, and failure to do so may constitute a full  
20          default of this Stipulation and the full remaining amount of two hundred fifty seven  
21          thousand dollars (\$257,000.00) may become immediately due and payable:

22               (i) Within sixty (60) days of the issuance of the corresponding  
23               Administrative Decision, remove all waste and used tires from the  
24               current property located at 4099 McConnell Road, Brawley CA  
25               92227 in accordance with the following:

26                       1) All waste and used tires (including whole tires and/or tire  
27                       equivalents) shall be removed by a registered waste tire  
28                       hauler. Manifests shall accompany each load of waste and

1 used tires removed, and RESPONDENTS shall submit the  
2 manifests to CALRECYCLE within one hundred twenty (120)  
3 days of the issuance of the corresponding Administrative  
4 Decision.

5 2) After the sixty-day period has expired, RESPONDENTS  
6 shall grant an inspector for CALRECYCLE, or an agent  
7 thereof, access to said property to verify the removal of the  
8 waste and used tires; or

9 (ii) Within ninety (90) days of the date of issuance of the Administrative  
10 Decision, submit a completed major or minor WTF Permit  
11 Application for the location.

12 (d) If any waste or used tires are found remaining at the site or the 4099  
13 McConnell Road, Brawley CA location following the inspection referred to in  
14 subparagraphs (b) and (c) above, RESPONDENTS shall grant CALRECYCLE, or any  
15 agent of CALRECYCLE or party contracted with CALRECYCLE to clean up the site, full  
16 and complete access to the site to allow for clean up. RESPONDENTS shall be  
17 responsible for any and all clean-up costs incurred by CALRECYCLE, or any agent of  
18 CALRECYCLE or party contracted with CALRECYCLE to clean up the site.  
19 CALRECYCLE, or any agent of CALRECYCLE or party contracted with CALRECYCLE  
20 to clean up the site, may recoup the full amount of clean-up costs by any legal means,  
21 including but not limited to, placing a lien on any real property owned by  
22 RESPONDENTS, in accordance with PRC section 42847.4. Said clean-up costs shall  
23 be separate and apart from the amount held in abeyance. This Stipulation and  
24 corresponding Administrative Decision shall serve as resolution to the civil action  
25 required by PRC section 42847 to recover costs incurred during clean up.

26 (e) RESPONDENTS shall comply with Waste Tire Laws set forth in PRC  
27 section 42800 et seq., and attendant regulations set forth in Title 14 of the CCR, and  
28 Waste Tire Hauler Laws set forth in PRC section 42950 et seq. and attendant

1 regulations set forth in Title 14 of the CCR;

2 (f) RESPONDENTS shall comply with all waste tire storage requirements set  
3 forth in 14 CCR section 17350 et seq.;

4 (g) RESPONDENTS shall maintain a manifesting error rate of 2% or less for  
5 the five-year period for which the abeyance is held; failure to do so may constitute a full  
6 default and the full remaining amount of two hundred fifty seven thousand  
7 (\$257,000.00) may become immediately due and payable;

8 (h) RESPONDENTS shall not, in any capacity, operate or own a new or  
9 existing major or minor WTF without first obtaining a major or a minor WTF Permit from  
10 CALRECYCLE. If RESPONDENTS apply for a major or a minor WTF Permit,  
11 RESPONDENTS shall immediately pay CALRECYCLE an amount of fifteen thousand  
12 dollars (\$15,000.00) from any remaining abeyance monies still owed. If  
13 RESPONDENTS fail to pay the fifteen-thousand dollars (\$15,000.00) prior to submitting  
14 a completed major or minor WTF Permit, or if RESPONDENTS fail to submit a  
15 completed major or minor WTF Permit prior to operating or owning a new or existing  
16 major or minor WTF, such act shall constitute a full default and the full remaining  
17 amount of two hundred fifty seven thousand dollars (\$257,000.00) shall become  
18 immediately due and payable.

19 (i) Unless specified otherwise in the subsections above, failure to comply  
20 with any of the above terms shall constitute a partial default of this Stipulation and the  
21 abeyance amount determined by CALRECYCLE shall become immediately due and  
22 payable. CALRECYCLE shall base any abeyance amount due on the penalty amounts  
23 set forth in PRC sections 42850, 42850.1, 42962, and 14 CCR sections 18429 and  
24 18464, taking into account the nature, circumstances, extent and gravity of the partial  
25 default.

26 30. Default: If RESPONDENTS default under the terms of this Stipulation,  
27 CALRECYCLE shall send a Notice of Default to RESPONDENTS; said Notice of  
28 Default shall state the paragraphs or provisions of this Stipulation of which

1 RESPONDENTS are in default and the abeyance amount owed. RESPONDENTS shall  
2 have fifteen (15) days from the date of the issuance of the Notice of Default to provide  
3 evidence refuting CALRECYCLE's claim of default. After a review of the evidence  
4 provided by RESPONDENTS, CALRECYCLE shall make a determination regarding the  
5 default and, if appropriate, shall issue a Supplemental Decision regarding any remaining  
6 penalties due. RESPONDENTS may appeal CALRECYCLE's determination and  
7 subsequent Supplemental Decision within thirty (30) days of the issuance of the  
8 Supplemental Decision; any such appeal shall be heard by CALRECYCLE's Director, or  
9 an agent designated by the Director.

10 31. No covenant, promise, term, condition, breach or default of or under this  
11 Stipulation shall be deemed to have been waived except as expressly so stated in  
12 writing by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by  
13 RESPONDENTS under this Stipulation shall not be deemed a waiver of any preceding  
14 or subsequent breach or default by RESPONDENTS.

15 32. RESPONDENTS have freely and voluntarily entered into this Stipulation  
16 and have been afforded the opportunity to consult with counsel prior to entering into this  
17 Stipulation. It is expressly understood and agreed that no representations or promises  
18 of any kind, other than as contained herein, have been made by any party to induce any  
19 other party to enter into this Stipulation, and that said Stipulation may not be altered,  
20 amended, modified or otherwise changed except by a writing executed by each of the  
21 parties hereto. Each party hereto agrees to execute and deliver any and all documents  
22 and to take any and all actions necessary or appropriate to consummate this Stipulation  
23 and to carry out its terms and provisions.

24 33. Except as expressly provided herein, RESPONDENTS waive the right in  
25 the entitled matter to a hearing, any and all appeals and any and all rights that may be  
26 afforded pursuant to the Public Resources Code, the Administrative Procedure Act, or  
27 any other provision of law regarding the express provisions of this Stipulation.

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1           34. This Stipulation shall be binding and inure to the benefit of the successors,  
2 heirs and assigns of the respective parties hereto.

3           35. This Stipulation and the corresponding Administrative Decision to be  
4 issued constitute the entire understanding of the parties concerning the settlement of  
5 this proceeding. There are no restrictions, promises, warranties, covenants,  
6 undertakings, or representations other than those expressly set forth herein or  
7 contained in separate written documents delivered or to be delivered pursuant hereto,  
8 and each party expressly acknowledges that it has not relied upon any restrictions,  
9 promises, warranties, covenants, undertakings, or representations other than those  
10 expressly contained herein.

11           36. For purposes of this Stipulation, facsimile signatures will be treated as  
12 originals until the applicable page(s) bearing non-facsimile signatures have been  
13 received by CALRECYCLE.

14           37. The effective date of this Stipulation is the date of issuance of the  
15 Administrative Decision.

16 Dated: 2/10/12

  
\_\_\_\_\_  
MARK DE BIE  
Deputy Director  
DEPARTMENT OF RESOURCES,  
RECYCLING AND RECOVERY  
(CALRECYCLE)

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21 Dated: <sup>oht</sup>~~2-7~~ 2-9-12

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

22  
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26 Dated: 2/7/12

  
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NORMAN L. MEEK, RESPONDENT, AS  
NORMAN L. MEEK, INDIVIDUALLY, AND AS,  
SO. CAL TIRE RECYCLING INC.

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Dated: 2/6/12

  
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RAJ SINGH, ATTORNEY  
CHILDERS & ASSOCIATES