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9 **STATE OF CALIFORNIA**

10 **DEPARTMENT OF RESOURCES RECYCLING & RECOVERY**

11 **In the Matter of:**

12 **WATTS LABOR COMMUNITY ACTION**

13 **COMMITTEE, Property Owner,**

14 **and**

15 **D & M TIRE SOLUTIONS, LLC.**

16 **TPID NO. 1668808**

17 **RESPONDENTS.**

Case No. IH13-004-TIR

**STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
WASTE TIRE STORAGE
ADMINISTRATIVE PENALTIES**

**PUBLIC RESOURCES CODE
SECTION 42850, ET SEQ.**

Agency No: 2012-011133-ADC

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20 **INTRODUCTION AND PROCEDURAL HISTORY**

21 The California Integrated Waste Management Board (CIWMB) is now the
22 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
23 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources
24 Code (PRC) section 40401(a)(1). The parties to this STIPULATION FOR ISSUANCE
25 OF ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE
26 PENALTIES (hereafter, "Stipulation") are CALRECYCLE and Watts Labor Community
27 Action Committee, Property Owner (WLCAC). In order to avoid the time, expense, and
28 uncertainties of litigation, CALRECYCLE and WLCAC hereby stipulate to the following

1 Factual Findings, Conclusions of Law, and Order set forth in this Stipulation.

2 On April 5, 2013, an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE
3 STORAGE ADMINISTRATIVE PENALTIES (Administrative Complaint) for \$16,750.00
4 was issued to RESPONDENTS D & M TIRE SOLUTIONS, LLC. and WLCAC. On April
5 26, 2013, Mr. Timothy Watkins, representative for WLCAC, filed a REQUEST FOR A
6 HEARING/NOTICE OF DEFENSE. A hearing was scheduled for June 13, 2013, at 9:00
7 a.m. at the CalRecycle Southern Office, 5777 W. Century Boulevard, 15th Floor
8 Conference Room, Los Angeles, California 90045. In order to pursue settlement of this
9 matter, CALRECYCLE and WLCAC (hereafter, referred to as "the Parties") submitted a
10 joint request for continuance on June 7, 2013. A NOTICE OF TELECONFERENCE ON
11 REQUEST FOR CONTINUANCE was scheduled for June 10, 2013, at 3:00 p.m. On
12 June 11, 2013, Hearing Officer, Thomas W. Vallance, granted the request for
13 continuance in the ORDER GRANTING CONTINUANCE AND NOTICE OF
14 TELEPHONIC STATUS CONFERENCE. During the June 10, 2013 teleconference, the
15 Parties waived the 60-day timeline for holding a hearing and agreed to schedule a
16 future telephonic status conference to discuss the status of their settlement
17 negotiations. A telephonic status conference was scheduled for July 3, 2013.

18 On July 3, 2013, the Parties advised Hearing Officer Vallance that a settlement of
19 the matter had been reached.

20 **STIPULATED FACTUAL FINDINGS**

21 1. CALRECYCLE has authority to inspect, permit, regulate and conduct
22 enforcement actions against Waste Tire Haulers and Waste Tire Facilities within the
23 State of California under PRC section 42800, et seq., and attendant regulations
24 contained in Title 14 of the California Code of Regulations (CCR).

25 2. PRC section 42834 states that on and after July 1, 1994, it is unlawful to
26 direct or transport waste tires to a minor waste tire facility or to accept waste tires at a
27 minor waste tire facility unless the operator has obtained a minor waste tire facility
28 permit.

1 3. Title 14 CCR section 17350 et seq. requires operators of permitted or
2 unpermitted waste tire facilities to comply with storage and safety requirements,
3 including, but not limited to, requirements regarding fire standards, site security, and
4 vector control.

5 4. A "Minor Waste Tire Facility" is defined in PRC section 42808(c) as "a
6 waste tire facility where, at any time, 500 or more, but less than 5,000, waste tires are or
7 will be stored, stockpiled, accumulated, or discarded."

8 5. Pursuant to PRC section 42804, "Operator" means the person responsible
9 for the overall operation of a waste tire facility.

10 6. Pursuant to Title 14, CCR section 17225.755, "Operator" is the person
11 legally responsible for the operation of a waste tire facility or the owner if there is no
12 operator."

13 7. An "Owner" is defined in PRC section 42805 and Title 14 CCR section
14 17225.760, as the person who owns, in whole or in part, a waste tire facility, the waste
15 tires located at a facility, or the land on which a waste tire facility is located.

16 8. RESPONDENT D & M TIRE SOLUTIONS, LLC is an unpermitted waste
17 tire facility located at 740 East 111th Place, Los Angeles, California 90059.

18 9. RESPONDENT WLCAC is the "Owner" of the land on which the
19 unpermitted waste tire facility, D & M TIRE SOLUTIONS, LLC., 740 East 111th Place,
20 Los Angeles, California 90059 (hereafter, referred to as "the site") is located.

21 10. At no time between August 18, 2011 and January 17, 2012, was the site a
22 permitted minor waste tire facility.

23 11. On August 18, 2011, City of Los Angeles Waste Tire Grantee Inspector,
24 Jerry Weir, conducted an inspection of the site and observed approximately 4,000
25 waste tires on site, as documented in Inspection Report # I1-1163439. A Notice of
26 Violation (NOV) was issued to RESPONDENT D & M TIRE SOLUTIONS, LLC. with a
27 30-day deadline period to comply.

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- 1 d. WLCAC's failure to comply with any of the hauling, plan approval, or
2 CTL remittal terms contained in this Stipulation shall constitute a partial
3 default of this Stipulation.
- 4 e. WLCAC agrees that no additional tires shall ever be delivered,
5 transported, stored, stockpiled, or accumulated at the site.
- 6 f. WLCAC shall grant CALRECYCLE staff access to the site for monthly
7 inspections during the three-month clean-up period and at the end of
8 the three-month clean-up period to verify compliance with the terms of
9 this Stipulation. The cost of these inspections will be borne by WLCAC
10 and shall include, time preparing for inspection, travel to the site, and
11 time spent preparing and writing inspection report.
- 12 g. Failure to reimburse CALRECYCLE for an inspection pursuant to this
13 Stipulation within 30 days of an invoice shall constitute a partial default
14 by WLCAC of this Stipulation.
- 15 h. WLCAC agrees to provide CALRECYCLE with all contact information
16 in its possession regarding RESPONDENT D & M TIRE SOLUTIONS,
17 LLC.
- 18 i. If CALRECYCLE determines that all tires are cleaned up from the site
19 within the three-month clean-up period, the waste tire storage
20 administrative penalties of \$16,750.00 will be withdrawn against
21 WLCAC.

22 **Additional terms:**

- 23 j. If CALRECYCLE determines that tires remain at the site after the
24 three-month clean-up period:
- 25 i. WLCAC agrees to grant CALRECYCLE staff access to the
26 site to clean up the tires and any additional environmental
27 threats created by the storage of these tires;
- 28

- 1 ii. WLCAC agrees to fully reimburse CALRECYCLE for the
- 2 cost expended to clean up these tires; and
- 3 iii. WLCAC agrees to immediately remit the full waste tire
- 4 storage administrative penalty of \$16,750.00 (less any partial
- 5 penalties already paid) to CALRECYCLE.
- 6 k. WLCAC will be given appropriate consideration should acts of God,
- 7 regulatory delays, or other impediments beyond WLCAC's control
- 8 cause tires to remain on the site after the three-month clean-up period.
- 9 l. The Parties agree to exhaust all other remedies and legal options
- 10 available before WLCAC is required to comply with these additional
- 11 terms.
- 12 19. **Default:** WLCAC is in default of this Stipulation if WLCAC fails to comply
- 13 with any of the terms and conditions set forth in this Stipulation, unless otherwise
- 14 specified. In the event that CALRECYCLE discovers a default of this Stipulation,
- 15 CALRECYCLE shall notify WLCAC by issuing a Notice of Default. WLCAC will have
- 16 thirty (30) days from the date of issuance of the Notice of Default to respond to
- 17 CALRECYCLE's allegations and provide evidence that a default did not in fact occur.
- 18 CALRECYCLE will review all counterarguments and evidence provided by WLCAC and
- 19 will make a determination as to whether a default occurred, or will issue a revised
- 20 Administrative Decision based on the default.
- 21 20. **Partial Default:** WLCAC is in partial default of this Stipulation if WLCAC
- 22 fails to comply with the specified terms and conditions set forth in this Stipulation. In the
- 23 event of a partial default, CALRECYCLE shall state the amount of penalties due in the
- 24 Notice of Default, in accordance with the penalty amounts prescribed in Public
- 25 Resources Code sections 42850, 42850.1, 42962 and Title 14, CCR sections 18429
- 26 and 18464. WLCAC will have thirty (30) days from the date of issuance of the Notice of
- 27 Default to respond to CALRECYCLE's allegations and provide evidence that a partial
- 28 default did not in fact occur. CALRECYCLE will review all counterarguments and

1 evidence provided by WLCAC and will make a determination as to whether a partial
2 default occurred, or shall issue an invoice ordering WLCAC to pay the specific penalty
3 prescribed in the Notice of Default within 30 days.

4 **21. Additional Inspections:** After compliance has again been regained at
5 the site and for a period of up to five (5) years following the issuance of an
6 Administrative Decision pursuant to this Stipulation, CALRECYCLE or an authorized
7 representative of CALRECYCLE, will inspect the site twice a year during the five-year
8 abeyance period. If CALRECYCLE determines that WLCAC has violated any waste tire
9 storage laws, or waste tire hauler laws by creating a new waste tire facility at the site,
10 CALRECYCLE shall be required to perform inspections at the location of the violation
11 (the site) that are in addition to those inspections otherwise required by statute or
12 regulation, at a frequency determined by CALRECYCLE, and until WLCAC comes into
13 compliance. WLCAC shall grant access to the site for these additional inspections.
14 Failure to grant access to CALRECYCLE inspectors or authorized representatives of
15 CALRECYCLE will be deemed a default of this Stipulation.

16 **22.** Nothing shall be implied in this Stipulation that shall preclude
17 CALRECYCLE from using any enforcement mechanism, whether administrative, civil, or
18 a referral for criminal penalties, should WLCAC commit future violations of waste tire
19 storage laws or waste tire hauler laws.

20 **23.** No covenant, promise, term, condition, breach, or default of, or under this
21 Stipulation shall be deemed to have been waived except as expressly so stated in
22 writing by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by
23 WLCAC under this Stipulation shall not be deemed a waiver of any proceeding or
24 subsequent breach or default.

25 **24.** WLCAC has freely and voluntarily entered into this Stipulation and has
26 been afforded the opportunity to consult with counsel prior to entering into this
27 Stipulation. It is expressly understood and agreed that no representations or promises
28 of any kind, other than as contained herein, have been made by any party to induce any

1 other party to enter into this Stipulation, and that said Stipulation may not be altered,
2 amended, modified or otherwise changed except by a writing executed by each of the
3 Parties hereto. Each party hereto agrees to execute and deliver any and all documents
4 and to take any and all actions necessary or appropriate to consummate this
5 STIPULATION and to carry out its terms and provisions.

6 25. Except as expressly provided herein, WLCAC waives the right in the
7 entitled matter to a hearing, any and all appeals, and any and all rights that may be
8 afforded pursuant to the PRC, the Administrative Procedure Act, or any other provision
9 of law regarding the express provisions of this Stipulation.

10 26. This Stipulation shall be binding and inure to the benefit of their
11 successors, heirs and assigns of the respective parties hereto.

12 27. This Stipulation and the Administrative Decision to be issued constitute
13 the entire understanding of the Parties concerning the settlement of this proceeding.
14 There are no restrictions, promises, warranties, covenants, undertakings, or
15 representations other than those expressly set forth herein or contained in separate
16 written documents delivered or to be delivered pursuant hereto, and the Parties
17 expressly acknowledge that they have not relied upon any restrictions, promises,
18 warranties, covenants, undertakings, or representations other than those expressly
19 contained herein.

20 28. The effective date of this Stipulation is the date of issuance of the
21 Administrative Decision.

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23 Dated: 7/31/13


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25 MARK DE-BIE
26 Deputy Director
27 DEPARTMENT OF RESOURCES,
28 RECYCLING AND RECOVERY
(CALRECYCLE)

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Dated: 7/29/13


MARTHA PEREZ
Staff Counsel
DEPARTMENT OF RESOURCES,
RECYCLING AND RECOVERY
(CALRECYCLE)

Dated: 7.24.13


TIMOTHY WATKINS
President
WATTS LABOR COMMUNITY ACTION
COMMITTEE (WLCAC)
Property Owner