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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 In the matter of:

11 RAUL G. DURAN DBA DURAN'S TIRE  
12 RECYCLING, OPERATOR and JOSE R.  
13 PADILLA, PROPERTY OWNER

14 TPID NO: 1640606-01

15 RESPONDENTS.

16 SUPPLEMENTAL ADMINISTRATIVE  
17 DECISION FOR THE SUSPENSION OF  
18 WASTE AND USED TIRE HAULER  
19 REGISTRATION

20 AGENCY NO: 2012-011140-ADC

21 **INTRODUCTION**

22 The Department of Resources Recycling and Recovery (CalRecycle) served an  
23 Administrative Complaint for Waste Tire Storage Administrative Penalties (Complaint) on  
24 RESPONDENT RAUL G. DURAN DBA DURAN'S TIRE RECYCLING (hereafter, referred to as  
25 "RESPONDENT") on December 14, 2012 for waste tire storage violations committed on a site  
26 owned and operated by RESPONDENT. RESPONDENT did not request a hearing.

27 CALRECYCLE and RESPONDENT (hereafter, referred to collectively as "the Parties")  
28 agreed to settle the matter in order to avoid the cost and uncertainties attendant with litigation  
and documented the terms of the settlement in a STIPULATION FOR ISSUANCE OF  
ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES

1 (hereafter, "Stipulation") signed by RESPONDENT on February 20, 2013. The Administrative  
2 Decision issued pursuant to the Stipulation was signed by Mark De Bie, Deputy Director on  
3 March 11, 2013.

4 On May 29, 2013, RESPONDENT was issued a *Notice of Default* letter ("Notice of  
5 Default"), notifying RESPONDENT that RESPONDENT was in default of the terms of the  
6 Stipulation and that RESPONDENT would be subject to immediate suspension of its Waste  
7 Tire Hauler Registration, for a one month period, if after reviewing any and all evidence  
8 provided by RESPONDENT to CALRECYCLE, CALRECYCLE determined that a default of the  
9 Stipulation did in fact occur. RESPONDENT was provided fifteen (15) days from the date of  
10 the Notice of Default to respond to the violations and provide any evidence refuting  
11 CALRECYCLE's allegations that a default of the Stipulation occurred.

12 Beginning on or around June 2013, the Parties took part in discussions regarding the  
13 Notice of Default. On June 19, 2013, Michael Reyes, representative for RESPONDENT,  
14 submitted a letter via electronic mail to CALRECYCLE regarding the Notice of Default.  
15 RESPONDENT's letter did not provide evidence that a default of the Stipulation did not occur.  
16 However, RESPONDENT's letter did ask CALRECYCLE to reconsider the one-month  
17 suspension citing financial and business reasons.

18 Pursuant to the Stipulation, and good cause appearing therefore, the following Factual  
19 Findings and Conclusion of Law are made, and the following Order is issued.

#### 20 **FACTUAL FINDINGS**

21 1. Paragraph 19(b) of the Stipulation provides:

22 RESPONDENT DURAN'S TIRE RECYCLING shall comply with all waste tire  
23 storage and waste tire hauler laws set forth in PRC [Public Resources Code]  
24 section 42800 et seq., PRC [Public Resources Code] section 42950 et seq., and  
attendant regulations in Title 14 of the CCR [California Code of Regulations].

25 2. Paragraph 19(c) of the Stipulation provides:

26 If RESPONDENT DURAN'S TIRE RECYCLING fails to comply with any waste tire  
27 laws set forth in PRC [Public Resources Code] sections 42800 et seq., 42950 et  
28 seq., or attendant regulations in Title 14 of the CCR [California Code of

1 Regulations], immediate suspension of RESPONDENT DURAN'S TIRE  
2 RECYCLING hauler registration shall go into effect for a period not to exceed  
3 three (3) calendar months.

4 3. Paragraph 19(d) of the Stipulation provides:

5 RESPONDENT DURAN'S TIRE RECYCLING shall abide by all the terms and  
6 conditions set forth in this Stipulation; failure to abide by all the terms and  
7 conditions set forth in this Stipulation shall result in immediate suspension of  
8 RESPONDENT DURAN'S TIRE RECYCLING hauler registration for a period  
9 not to exceed three (3) calendar months.

10 4. On or about March 26, 2013, Inspectors Donald Van Dyke and Dustin Schiavo,  
11 Inspectors with CalRecycle Waste Tire Compliance Section (North Unit), conducted an  
12 inspection of DURAN'S TIRE RECYCLING, located at 3442 La Grande Blvd, Suite C,  
13 Sacramento, CA 95823 (TPID No: 1640606-01) (hereafter, referred to as "the site") to  
14 determine compliance with the Stipulation. During this inspection, and as documented in  
15 Inspection Report IW-1005427, Inspectors Van Dyke and Schiavo observed approximately  
16 2,163 waste tires on the site. Because the site did not have either a minor or major waste tire  
17 facility permit, the site was only legally allowed to store, stockpile, or accumulate up to 499  
18 waste tires. Because RESPONDENT accepted waste tires in an amount exceeding 499,  
19 RESPONDENT violated Public Resources Code section 42834.

20 5. On or around March 26, 2013, Inspectors Van Dyke and Schiavo conducted an  
21 evaluation of Comprehensive Trip Log ("CTL") receipts to determine compliance with the waste  
22 tire manifest system requirements set forth in Title 14 of the California Code of Regulations,  
23 section 18459. As documented in Inspection Report IW-1005427 and observed by Inspectors  
24 Van Dyke and Schiavo, CTL receipts for years 2012 and prior were available for inspection;  
25 however, CTL receipts for year 2013 were not on the site. Because the CTL receipts for year  
26 2013 were not available for inspection to CALRECYCLE staff, nor were they kept on the site,  
27 RESPONDENT is in violation of the waste tire hauler laws and waste tire manifest system  
28 requirements set forth in Public Resources Code section 42950 et seq., and attendant  
regulations.



ORDER

GOOD CAUSE APPEARING THEREFORE, the following order is hereby made:

1. RESPONDENT DURAN'S TIRE RECYCLING's waste tire hauler registration is suspended for a period not to exceed one calendar month, effective December 15, 2013 until January 15, 2014.
2. During the one month suspension, RESPONDENT DURAN's TIRE RECYCLING shall not haul more than nine (9) waste or used tires on public roadways.

The effective date of this Decision is November 25, 2013.

Dated this 25 day of November, 2013.

  
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MARK DE BIE  
Deputy Director