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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10  
11 In the matter of:

12 LUNAS CONSTRUCTION CLEAN-UP,  
13 INC.

14 TPID NO: 1599574-01

15 RESPONDENT.

} SUPPLEMENTAL STIPULATION FOR  
ISSUANCE OF ADMINISTRATIVE  
DECISION FOR PENALTIES PURSUANT  
TO DEFAULT OF STIPULATION

} PUBLIC RESOURCES CODE  
SECTION 42950, ET SEQ.

} AGENCY No: 2011-011129-ADC

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17  
18 **INTRODUCTION**

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20 The parties to this SUPPLEMENTAL STIPULATION FOR ISSUANCE OF  
21 ADMINISTRATIVE DECISION FOR PENALTIES PURSUANT TO DEFAULT OF  
22 STIPULATION (Supplemental Stipulation) are the Department of Resources Recycling and  
23 Recovery (CALRECYCLE) and LUNAS CONSTRUCTION CLEAN-UP, INC. (RESPONDENT).  
24 CALRECYCLE and RESPONDENT previously stipulated to Factual Findings, Conclusions of  
25 Law, and final Order in the Stipulation for Issuance of Administrative Decision for Waste Tire  
26 Hauler Administrative Penalties (Stipulation) signed by RESPONDENT on September 13,  
27 2012, and signed by CALRECYCLE on September 26, 2012. An Administrative Decision  
28 Pursuant to Stipulation for Waste Tire Hauler Administrative Penalties ("Administrative

1 Decision") was issued on September 26, 2012. The Stipulation and Administrative Decision  
2 went into effect on September 26, 2012.

3 This Supplemental Stipulation does not supersede the Stipulation or the Administrative  
4 Decision, including the Stipulated Factual Findings, Stipulated Conclusions of Law, and final  
5 Order. This Supplemental Stipulation supplements the Stipulation and the Administrative  
6 Decision. CALRECYCLE and RESPONDENT enter into this Supplemental Stipulation to settle  
7 waste tire hauler administrative penalties owed by RESPONDENT pursuant to a default by  
8 RESPONDENT of the terms and conditions set forth in the Stipulation and Administrative  
9 Decision. Specifically, RESPONDENT is in default of the terms set forth in the Stipulated  
10 Order, Paragraph 20(h) and 20(j) of the Stipulation.

11 CALRECYCLE and RESPONDENT have entered into a settlement and agree to the  
12 terms and conditions set forth in this Supplemental Stipulation to cure the default by  
13 RESPONDENT. CALRECYCLE and RESPONDENT stipulate to a \$3,000.00 administrative  
14 penalty imposed upon RESPONDENT and in favor of CALRECYCLE.

### 15 16 **STIPULATED FACTUAL FINDINGS**

17 1. The Stipulated Factual Findings set forth in Paragraphs 1 - 17 of the Stipulation  
18 are incorporated by reference herein.

19 2. On or about February 13, 2013, Inspector Michael Payan, from CALRECYCLE's  
20 Tire Hauler Compliance Unit performed an audit of RESPONDENT's monthly logs submitted to  
21 CALRECYCLE for the time period from October 2012 through December 2012. The  
22 information in the monthly logs was cross-checked against the Comprehensive Trip Logs  
23 ("CTLs") (also referred to as Manifest Forms) provided to CALRECYCLE by RESPONDENT.

24 3. The audit by Mr. Payan revealed that when compared to the information provided  
25 to CALRECYCLE, RESPONDENT's monthly logs contained the following discrepancies:

- 26 i. RESPONDENT's October 2012 log did not reflect two instances of hauling  
27 used or waste tires by RESPONDENT, documented in CTL nos. 4754448  
28 and 4754439.

- 1           ii. RESPONDENT's November 2012 log did not reflect one instance of  
2           hauling used or waste tires by RESPONDENT, documented in CTL no.  
3           4754424, but did reflect two instances of hauling used or waste tires by  
4           RESPONDENT for which CTLs were never provided to CALRECYCLE,  
5           CTL nos. 4754388 and 4754386.
- 6           iii. RESPONDENT's December 2012 log did not reflect one instance of  
7           hauling used or waste tires by RESPONDENT, documented in CTL no.  
8           4754416.

9           4.     RESPONDENT provided CALRECYCLE with monthly logs as set forth in  
10          Paragraph 20(h) of the Stipulation, except that RESPONDENT's monthly logs contained  
11          incomplete or inaccurate information, as evidenced by the discrepancies between hauling  
12          activities listed in RESPONDENT's monthly logs and documentation received by  
13          CALRECYCLE for RESPONDENT's hauling activities.

14          5.     On March 19, 2013, CALRECYCLE issued a Notice of Default of Stipulation for  
15          Issuance of Administrative Decision for Waste Tire Hauler Administrative Penalties (Notice of  
16          Default) to RESPONDENT sent by certified United States Postal Service mail. The Notice of  
17          Default issued an administrative penalty of \$6,000.00 for RESPONDENT's default and  
18          informed RESPONDENT that RESPONDENT had 20 days from the date of receipt of the  
19          Notice of Default to provide evidence to CALRECYCLE that there was no default of the  
20          Stipulation.

21          6.     The due date for RESPONDENT to provide evidence refuting CALRECYCLE's  
22          claim of default was April 15, 2013.

23          7.     On or around March 28, 2013, Norberto Madrigal, representative for  
24          RESPONDENT, contacted Martha Perez, Staff Counsel for CALRECYCLE, and Heather Hunt,  
25          Staff Counsel III for CALRECYCLE, regarding the Notice of Default.

26          8.     On or around April 3, 2013, Ms. Perez and Ms. Hunt spoke with Mr. Madrigal,  
27          regarding the Notice of Default and the corresponding \$6,000.00 administrative penalty.

1 RESPONDENT stated that he was not aware of the discrepancies contained in the monthly  
2 logs until the matter was brought to RESPONDENT's attention via the Notice of Default.

3 9. On or around April 5, 2013, Ms. Perez had a follow up conversation with Mr.  
4 Madrigal regarding the Notice of Default. RESPONDENT stipulated to a reduced  
5 administrative penalty of \$3,000.00 in favor of CALRECYCLE. Mr. Madrigal also stated that he  
6 would submit a letter to CALRECYCLE responding to the Notice of Default.

7 10. On April 10, 2013, RESPONDENT submitted a letter via electronic mail to Ms.  
8 Perez, Staff Counsel for CALRECYCLE, addressing the discrepancies found in the October  
9 2012 through December 2012 monthly logs. RESPONDENT's letter conceded that there were  
10 discrepancies with the CTLs provided on RESPONDENT's monthly logs and submitted to  
11 CALRECYCLE, but stated that the discrepancies were "simple oversights which we  
12 [RESPONDENT] traced back to a former disgruntled employee who is no longer with us  
13 [RESPONDENT]." RESPONDENT's letter also asked CALRECYCLE to reconsider imposing  
14 the \$3,000.00 penalty.

15 11. RESPONDENT's letter did not provide evidence that there was no default of the  
16 Stipulation.

17 12. On or around June 17, 2013, CALRECYCLE and RESPONDENT stipulated to a  
18 \$3,000.00 administrative penalty against RESPONDENT and in favor of CALRECYCLE, to be  
19 paid in full within six months of effective date of the Supplemental Stipulation.

20  
21 **STIPULATED CONCLUSIONS OF LAW**

22 13. The Stipulated Conclusions of Law set forth in Paragraphs 18 - 19 of the  
23 Stipulation are incorporated by reference herein.

24 14. RESPONDENT failed to comply with the required laws related to waste tire  
25 haulers set forth in Public Resources Code ("PRC") sections 42950 et seq. and Title 14 of the  
26 California Code of Regulations ("CCR"), sections 18449 et seq. Therefore, RESPONDENT is  
27 in violation of Paragraph 20(j) of the Stipulation and the Administrative Decision.



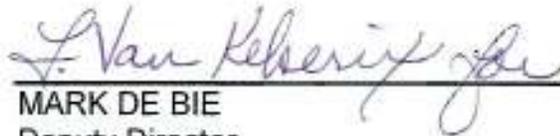
1 designate in writing. Payments may be remitted in the form of check,  
2 cashier's check, money order, cash, or credit card.

3 b. If said payment by RESPONDENT is not remitted by RESPONDENT to  
4 said addressee by the due date, or by a date later issued by  
5 CALRECYCLE, and if RESPONDENT fails to cure the missed payment(s)  
6 within twenty (20) days of said missed payment, RESPONDENT shall be  
7 found in partial default of the Stipulation.

8 19. Failure to pay the \$3,000.00 penalty by the said due date shall constitute a  
9 default of this Supplemental Stipulation.

10 20. The effective date of this Supplemental Stipulation is the date of issuance of the  
11 Supplemental Decision.

12  
13  
14 Dated: 7/16/13



15 MARK DE BIE  
16 Deputy Director  
17 DEPARTMENT OF RESOURCES RECYCLING  
18 AND RECOVERY (CALRECYCLE)

19 Dated: 7/16/13



20 MARTHA PEREZ  
21 Staff Counsel  
22 DEPARTMENT OF RESOURCES RECYCLING  
23 AND RECOVERY (CALRECYCLE)

24 Dated: 7/10/13



25 NORBERTO MADRIGAL  
26 Representative  
27 LUNAS CONSTRUCTION CLEAN-UP, INC.  
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