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STATE OF CALIFORNIA

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF: **Golden By-Products, Inc.,** **PROPERTY OWNER AND OPERATOR** **RESPONDENT.** **TPID NO.: 1003314**	**Case No. IH14-008-TIR** **FIRST AMENDED ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES** **PUBLIC RESOURCES CODE SECTION 42850 ET SEQ.;** **AGENCY NO. 2014-011166-ADC**

INTRODUCTION

The California Department of Resources Recycling and Recovery ("CALRECYCLE") issues this First Amended Administrative Complaint For Waste Tire Storage Penalties (hereafter, "Amended Administrative Complaint") to GOLDEN BY-PRODUCTS, INC., Property Owner and Operator (hereafter, referred to as "GOLDEN BY-PRODUCTS" or "RESPONDENT") seeking $965,000.00. The California Integrated Waste Management Board ("CIWMB" or also referred to as, the "Board") is now CALRECYCLE. CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (PRC) sections 40400 and 40401(a)(1).

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CALRECYCLE is authorized to inspect, permit, regulate, and conduct enforcement actions against waste tire facilities and waste tire haulers within the State of California pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations ("CCR"). CALRECYCLE is authorized to issue an administrative accusation for penalties to a person on whom civil liability may be imposed. This First Amended Administrative Complaint is so issued based on the following facts.

STATEMENT OF FACTS

1. GOLDEN BY-PRODUCTS, INC., Tire Program Identification ("TPID") Number 1003314, is a major permitted waste tire facility located at 13000 Newport Dr., Ballico, California, 95303, Assessor's Parcel Number 041-120-019 (hereafter, referred to as "the site").

2. RESPONDENT is a "Major waste tire facility" as that term is defined in PRC section 42808(b).[1]

3. On July 6, 2009, CALRECYCLE issued GOLDEN BY-PRODUCTS, INC. a new waste tire facility permit for a "Major Waste Tire Facility," (hereafter, referred to as "Major WTFP") authorizing a maximum permitted capacity of 1,500 tons of whole tires and primary shreds (altered tires larger than 2 inches in diameter) (150,000 passenger tire equivalents (PTEs)), and 8,500 tons of other material, as that material is described in the Major WTFP.

4. RESPONDENT's Major WTFP will expire on July 6, 2014.

5. From November 6, 2013, and until the present, RESPONDENT has stored in excess of 150,000 PTEs of whole waste tires and/or primary shreds on the site, in violation of RESPONDENT's Major WTFP.

6. On November 6, 2013, at 1:30 pm, Merced County Environmental Health inspectors Esperanza Cabrera-Clark, Paul Wrighton, and supervisor Vickie Jones, along with CALRECYCLE inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean Whalen, and Mathew Vipond performed a routine inspection of RESPONDENT's site to ensure compliance with applicable waste tire storage and disposal standards and the terms and conditions of GOLDEN BY-PRODUCT's Major WTFP. Also in attendance during this inspection was

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[1] A "Major Waste Tire Facility" is defined as, "a waste tire facility where, at any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded." (PRC section 42808(b).)

Merced County Fire Marshal, Hank Moore, who performed a separate fire safety inspection of the site.[2] Inspectors were met by Steve Krauss of GOLDEN BY-PRODUCTS, and Karen and Brett Barstow, owners of GOLDEN BY-PRODUCTS.

During this inspection, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas to determine compliance with the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state minimum standards. As documented in Inspection Report #I1-1206501, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than two inches in diameter) count of approximately 466,868 PTEs were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits as specified in conditions 4.d. and 15.a., and a violation of PRC section 42850(a). Additionally, and as documented in Inspection Report #I1-1206501, Merced County and CALRECYCLE inspectors determined that RESPONDENT was in violation of Title 14 CCR section 17354 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major WTFP, specifically general conditions: 15.aa; 15.ff; 15.gg; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; and 15.nn. RESPONDENT was cited for these violations and received a Notice of Violation with a compliance deadline date of March 3, 2014.[3]

7. On March 5, 2014, Merced County inspector Esperanza Cabrera-Clark and CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Jean Whalen, Mathew Vipond, and Dustin Schiavo returned to RESPONDENT's site to perform a re-inspection and determine whether RESPONDENT had come into compliance with the compliance deadline date of March 3, 2014. Also in attendance during this inspection were Margie Comotto and Kevin Taylor, of CALRECYCLE's permitting division. Inspectors were met by Steve Krauss of GOLDEN BY-PRODUCTS.

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[2] On March 18, 2014, Merced County Fire Marshal, Hank Moore, issued RESPONDENT a Notice of Violation for the violations found during the fire inspection site visit on November 6, 2013.

[3] Inspection Report #I1-1206501 citing the Notice of Violation and compliance deadline date was hand-delivered to RESPONDENT's facility on February 3, 2014 by Merced County Inspector Esperanza Cabrera-Clark.

During this inspection, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas to determine compliance with the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state minimum standards. As documented in Inspection Report #IW-1010048, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than two inches in diameter) count of approximately 565,514 PTEs were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits as specified in conditions 4.d. and 15.a., and a violation of PRC section 42850(a). Additionally, Merced County and CALRECYCLE inspectors determined that RESPONDENT was in violation of Title 14 CCR section 17353 (vector control measures), Title 14 CCR section 17354 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major WTFP, specifically general conditions: 15o; 15r; 15.aa; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; 15.nn; and 15.qq. CALRECYCLE inspector Rob Baumann explicitly noted on Inspection Report #IW-1010048 that RESPONDENT was in violation of Title 14 CCR section 17353(a), Vector Control, since inspectors documented multiple examples of standing water with larva formation in waste tires at RESPONDENT's site.

As documented in Inspection Report #IW-1010048, RESPONDENT was cited for these violations, and the Notice of Violation given on November 6, 2013 was not extended and remained in effect. Violations noted during the November 6, 2013 inspection were still outstanding. RESPONDENT was not provided with a new compliance deadline date. However, and as noted in Inspection Report #IW-1010048, CALRECYCLE will issue a Cleanup and Abatement Order to RESPONDENT. Inspection Report #IW-1010048 was mailed to RESPONDENT via first-class United States Postal Service (USPS) certified mail on March 14, 2014.

8. On March 14, 2014, CALRECYCLE issued Cleanup and Abatement Order (hereafter, referred to as "CAO") 2014-011034-CAO to RESPONDENT for violating waste tire storage laws and regulations, and for capacity violations related to RESPONDENT's Major WT

Facility Permit. RESPONDENT was served with the CAO on or around March 17-18, 2014.[4] RESPONDENT was ordered to, "*remove all waste tires in excess of 1,500 tons or 150,000 passenger tire equivalents from the premises within 30 days from the date of service of this Cleanup and Abatement Order (CAO).*" (Emphasis added.) The CAO also ordered RESPONDENT to do the following, "[b]eginning March 24, 2014, maintain daily incoming and outgoing tonnage records for all waste/PTE tires until you obtain compliance with section one [of the CAO] above . . . submit [above records] to Geralda Stryker of my [CALRECYCLE] staff . . . by close of business on Friday of each week for the duration." The CAO also noticed RESPONDENT that failure to comply with the CAO by the specified date may subject RESPONDENT to civil penalties, the issuance of an injunction, criminal penalties, and/or administrative civil penalties pursuant to PRC sections 42845, 42850, and 42850.1. RESPONDENT had 10 days from the date of service of the CAO to file a petition with CALRECYCLE to raise any substantial issues appropriate for review. CALRECYCLE did not receive a petition from RESPONDENT.

9. On April 29, 2014, Merced County inspector Esperanza Cabrera-Clark and CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean Whalen, Mathew Vipond, Dustin Schiavo, and Nikki Castagneto returned to RESPONDENT's site to perform a follow-up inspection to determine whether RESPONDENT had come into compliance with the CAO. Also in attendance during this inspection was Geralda Stryker, supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by Karen Barstow, owner of GOLDEN BY-PRODUCTS, and Steve Krauss of GOLDEN BY-PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas to determine compliance with the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state minimum standards. As documented in Inspection Report #IW-1011032, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than two inches in diameter) count of approximately 946,400 PTEs

[4] On March 19, 2014, CALRECYCLE received a returned USPS registered certified mail receipt, signed by Lisa Gomes of Golden By-Products.

were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits as specified in conditions 4.d. and 15.a., the CAO, and a violation of PRC section 42850(a).

Additionally, Merced County and CALRECYCLE inspectors determined that RESPONDENT was still in violation of Title 14 CCR section 17353 (vector control measures), Title 14 CCR section 17354 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major WTFP, specifically general conditions: 15.r; 15.aa; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; 15.nn; and 15.qq. CALRECYCLE inspector Rob Baumann explicitly noted on Inspection Report #IW-1011032 that RESPONDENT was still in violation of Title 14 CCR section 17353(a), Vector Control, since inspectors documented examples of standing water with larva formation in waste tires at RESPONDENT's site. Inspectors notified the Merced County Mosquito Abatement District shortly after the March 5, 2014 inspection when violation of Title 14 CCR section 17353 was first documented. On June 2, 2014, the Merced County Mosquito Abatement District issued a letter to Karen Barstow, owner of GOLDEN BY-PRODUCTS, regarding facility [site] inspections wherein the Merced County Mosquito Abatement District detected "a limited amount of mosquito breeding" during each site inspection of a species "capable of transmitting West Nile virus."

As documented in Inspection Report #IW-1011032, RESPONDENT was cited for these violations. RESPONDENT still had not come into compliance with the terms and conditions of its Major WTFP, nor had RESPONDENT removed all waste tires in excess of 1,500 tons or 150,000 PTEs within the 30-day timeframe as ordered by the CAO. Inspection Report #IW-1011032 was sent via electronic mail to Steve Krauss of GOLDEN BY-PRODUCTS on May 12, 2014, and via USPS first-class mail on May 13, 2014.

10. On June 4, 2014, Merced County Inspector Esperanza Cabrera-Clark and CALRECYCLE Inspectors Robert Baumann, Mathew Vipond, Dustin Schiavo, Peder Kryski, Jean Whalen, Billy Yos returned to RESPONDENT's site to determine whether RESPONDENT had come into compliance with the CAO. During this inspection, the inspectors focused on RESPONDENT's compliance with its Major WTFP capacity related

conditions 4.d. and 15.a. Also in attendance during this inspection was Geralda Stryker, supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by Karen Barstow, owner of GOLDEN BY-PRODUCTS, and Steve Krauss of GOLDEN BY-PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas to determine compliance with the Major WTFP capacity limits. As documented in Inspection Report #IW-1011790, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than two inches in diameter) count of approximately 614,697 PTEs were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits, the CAO, and a violation of PRC section 42850(a). RESPONDENT was still in violation of Title 14 CCR section 17354 (storage of waste tires outdoors), and the specific terms and conditions in its Major WTFP, specifically general conditions: 15.aa; 15.hh; 15.jj; and 15.kk.

As documented in Inspection Report #IW-1011790, RESPONDENT was cited for these violations. RESPONDENT still had not come into compliance with the capacity limits and other terms and conditions of its Major WTFP, nor had RESPONDENT removed all waste tires in excess of 1,500 tons or 150,000 PTEs within the 30-day timeframe as ordered by the CAO. Inspection Report #IW-1011790 was sent via electronic mail to Steve Krauss, Brett Barstow, and Karen Barstow of GOLDEN BY-PRODUCTS on June 17, 2014, and via first-class USPS mail on June 25, 2014.

11. On June 24, 2014, Merced County inspector Esperanza Cabrera-Clark and CALRECYCLE Inspectors Robert Baumann, Peder Kryski, Jean Whalen, Mathew Vipond, Nikki Castagneto, Mary LeClaire, Billy Yos, and Nai Teurn returned to RESPONDENT's site to conduct a pre-permit inspection and determine whether RESPONDENT had come into compliance with the CAO. Also in attendance during this inspection was Merced County Fire Marshal, Hank Moore, who performed a separate fire safety inspection of the site. CALRECYCLE inspector Billy Yos accompanied Merced County Fire Marshal Hank Moore during the fire safety inspection for an approximate 20 minute duration of the fire safety

inspection. Inspectors were met by Brett Barstow, co-owner of GOLDEN BY-PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas to determine compliance with the Major WTFP capacity limits, other terms and conditions of the Major WTFP, and state minimum standards.

As documented in Inspection Report #IW-1011953, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than two inches in diameter) count of approximately 686,027 PTEs were being stored on RESPONDENT's site. This is in violation of RESPONDENT's Major WTFP capacity limits as specified in conditions 4.d. and 15.a., the CAO, and a violation of PRC section 42850(a). Additionally, Merced County and CALRECYCLE inspectors determined that RESPONDENT was still in violation of Title 14 CCR section 17354 (storage of waste tires outdoors), and in violation of specific terms and conditions in its Major WTFP, specifically general conditions: 15.c; 15.aa; 15.dd; 15.ee; 15.hh; 15.ii; 15.jj; 15.kk; 15.mm; 15.nn; and 15.qq. Furthermore, Fire Safety Marshal Hank Moore issued a "Fire Safety Notice" to RESPONDENT on June 27, 2014, requiring RESPONDENT to come into compliance with current California Fire Code (CFC), Merced County Code, and Title 19 of the CCR, and noting additional requirements for the following items: (1) fire extinguishers need to be checked monthly; (2) access to fire hydrants needs to be cleared and hydrants must have a minimum foot width distance; (3) need current maintenance/flow test records for water pumps as requested during the November 6, 2013 fire safety inspection; (4) and pumps need to be corrected to meet CFC standards.

As documented in Inspection Report #IW-1011953, RESPONDENT was cited for these violations. RESPONDENT still had not come into compliance with the terms and conditions of its Major WTFP, nor had RESPONDENT removed all waste tires in excess of 1,500 tons or 150,000 PTEs within the 30-day timeframe as ordered by the CAO. Additionally, RESPONDENT had not come into compliance with Fire Safety Plan which requires an adequate water supply to be available for use by the local fire authority, pursuant to Title 14 CCR section 17351(c). Inspection Report #IW-1011953 will be sent via electronic mail to Steve

Krauss of GOLDEN BY-PRODUCTS and via USPS first-class mail by close of business on June 27, 2014.

12. RESPONDENT's Major WTFP expired on July 6, 2014.

13. On July 17, 2014, Merced County inspector Esperanza Cabrera-Clark and CALRECYCLE Inspectors Robert Baumann, Jean Whalen, Mathew Vipond, Nikki Castagneto, Dustin Schiavo, Billy Yos, and Nai Teurn returned to RESPONDENT's site to perform an inspection to determine compliance with state minimum standards and waste tires laws as set forth in Chapter 16 of the PRC. Also in attendance during this inspection was Geralda Stryker, supervisor, CALRECYCLE Waste Tire Compliance – Central Unit. Inspectors were met by Amber Barstow and Stephen Krauss of GOLDEN BY-PRODUCTS. As in previous inspections, Merced County and CALRECYCLE inspectors broke off into respective groups to measure indoor/outdoor tire storage areas.

As documented in Inspection Report #IW-1012530, Merced County and CALRECYCLE inspectors determined that a total whole waste tire and altered waste tire (greater than ¼ inches in diameter) count of approximately 611,860 PTEs were being stored on RESPONDENT's site. This is in violation of PRC section 42824, which makes it "unlawful to direct or transport waste tires to a major waste tire facility or to accept waste tires at a major waste tire facility unless the operator has obtained a major waste tire facility permit." During the inspection, Merced County and CALRECYCLE inspectors determined that RESPONDENT was also in violation of Title 14 CCR sections 17351(c) (fire prevention measures) and 17354 (storage of waste tires outdoors). RESPONDENT was given a Notice of Violation with a compliance deadline of July 17, 2014. These violations included violations for improper tire pile storage, insufficient separation between tire piles and flammable materials, surface water drainage issues, and failure to remove tires from rims upon arrival at the facility. Inspection Report #IW-1012530 was sent via USPS first-class mail on August 15, 2014, and via electronic mail to Karen Barstow of GOLDEN BY-PRODUCTS on August 19, 2014.

14. On August 15, 2014, CALRECYCLE issued a subsequent Cleanup and Abatement Order (hereafter, referred to as "August 2014 CAO") 2014-011036-CAO to

RESPONDENT for violating waste tire storage laws and regulations, including but not limited to, violations of state minimum standards and storing 5,000 or more waste tires on the site without a valid major waste tire facility permit. RESPONDENT was served with the CAO on or around August 19, 2014. RESPONDENT was ordered to, "*reduce and maintain the number of waste tires onsite to 0 (zero), in accordance with the following: (1) Remove all waste tires from the premises immediately, in accordance with PRC section 42845(a)(2). (2) At no time may you accept additional waste tires at this site, . . . for as long as this site remains in violation.*" (Emphasis added.) The CAO also noticed RESPONDENT that failure to comply with the CAO may subject RESPONDENT to civil penalties, the issuance of an injunction, criminal penalties, and/or administrative civil penalties pursuant to PRC sections 42845, 42850, and 42850.1. RESPONDENT has 10 days from the date of service of the CAO to file a petition with CALRECYCLE to raise any substantial issues appropriate for review.

ALLEGATIONS OF SPECIFIC VIOLATIONS

15. CALRECYCLE seeks administrative penalties of $965,000.00 pursuant to PRC sections 42850.1(b) and Title 14 CCR section 18429. The administrative penalties are based on the above-mentioned facts, and for the following violations as more specifically set forth in the foregoing paragraphs.

a. RESPONDENT is in violation of the CAO, thereby violating PRC section 42845, which requires any person, upon order of CALRECYCLE, to clean-up, abate the effects of waste tires, or take other remedial action as necessary. The CAO ordered RESPONDENT to, "*remove all waste tires in excess of 1,500 tons or 150,000 passenger tire equivalents from the premises within 30 days from the date of service of this Cleanup and Abatement Order (CAO).*" (Emphasis added.)

RESPONDENT's deadline to comply with the CAO was on or around April 19, 2014. On April 29, 2014, RESPONDENT was storing approximately 946,400 passenger tire equivalents on the site. On June 4, 2014, RESPONDENT was storing approximately 614,697 passenger tire

equivalents on the site. On June 24, 2014, RESPONDENT was storing approximately 686,027 passenger tire equivalents on the site.

b. Beginning with the November 6, 2013 inspection and every inspection conducted thereafter ending with the June 24, 2014 inspection, RESPONDENT was in violation of PRC section 42850(a), complying with the terms and conditions of its Major WTFP.

c. Beginning with the November 6, 2013 inspection and every inspection conducted thereafter, RESPONDENT was in violation of Title 14 CCR section 17354, complying with outdoor storage requirements.

d. Beginning with the March 5, 2014 inspection, and thereafter on the April 29, 2014 inspection, RESPONDENT was in violation of Title 14 CCR section 17353(a), complying with vector control measures.

e. RESPONDENT is in violation of the August 2014 CAO, thereby violating PRC section 42845(a)(2), which requires any person who is operating a waste tire facility that has not been issued a waste tire facility permit, and has been issued a CAO, to remove all waste tires from the site and is prohibited from accepting any additional waste tires at the site. RESPONDENT's Major WTFP expired on July 6, 2014. As of July 7, 2014, and to date, RESPONDENT has not been issued and does not possess a current, valid waste tire facility permit.

PENALTIES

16. RESPONDENT is liable for administrative penalties as set forth in PRC section 42850.1 for intentional violations.

17. CALRECYCLE's authority to assess administrative penalties against RESPONDENT is set forth in PRC section 42850.1(b), which states:

> (b) (1) Any person who intentionally violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter is liable for a civil penalty not to exceed ten thousand dollars ($10,000), for each

violation of a separate provision or, for continuing violations, for each day that the violation continues.

(2) Liability under this subdivision may be imposed in a civil action or may be imposed administratively pursuant to this article.

RESPONDENT is subject to an administrative penalty of up to $10,000 per violation of a separate provision, or for continuing violations for each day RESPONDENT continues to be in violation.

18. Title 14 CCR section 18429(b)(1) authorizes a base penalty of $8,000.00 for every day the intentional violation continues after the deadline set forth in the CAO against permitted waste tire facilities that accumulate between 50,000 or more waste tires in excess of their permitted capacity.

19. Beginning on April 19, 2014, the deadline set forth in the CAO, and until July 17, 2014, the date of the last inspection completed before issuance of this First Amended Administrative Complaint, RESPONDENT has stored between 300,000 to 800,000 more waste tires in excess of its permitted capacity. Penalties against RESPONDENT have accumulated in the amount of $900,000.00.[5]

20. Penalties will continue to accumulate for every day that RESPONDENT is in violation of the CAO and the August 2014 CAO.

21. Title 14 CCR section 18429(b)(1) authorizes additional penalties in the following amounts: (1) violations of permit conditions (except capacity violations), $500.00 - $5,000.00 range for each occurrence of the violation; (2) violations of Title 14 CCR section 17353, Vector Control Measures, $500.00 - $5,000.00 range for each occurrence of the violation; and (3) violations of Title 14 CCR section 17354, parameters for storage of waste tires outdoors, $500.00 - $5,000.00 range for each occurrence of the violation.

22. Beginning on November 6, 2013, and every inspection conducted thereafter ending with the June 24, 2014 inspection, RESPONDENT was in violation of Title 14 CCR section 17354, the improper storage of waste tire outdoors, and the terms and conditions of its

[5] Pursuant to the penalty schedule set forth in Title 14 CCR section 18429, the following penalty was calculated for RESPONDENT: $8,000.00 x 1.25 risk factor x 90 days (April 19, 2014 to July 17, 2014) = $900,000.00.

Major WTFP. On March 5, 2013, and thereafter on April 29, 2014, RESPONDENT was in violation of Title 14 CCR section 17353, complying with vector control measures. On July 17, 2014, RESPONDENT was in violation of Title 14 CCR section 17354, parameters for storage of waste tires outdoors. Additional penalties against RESPONDENT have accumulated in the amount of $65,000.00.[6]

23. In determining an appropriate administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the nature, circumstances, extent and gravity of the violation, RESPONDENT's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, RESPONDENT's ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty will have on both RESPONDENT and on the regulated community as a whole.

24. Pursuant to PRC section 42846.5, the imposition of penalties herein may form the basis for a subsequent CALRECYCLE order permitting CALRECYCLE or its contractor's access to the property mentioned herein to perform cleanup, abatement or remedial work under PRC section 42846. Further, PRC section 42847 authorizes CALRECYCLE to seek recovery of the costs of any cleanup abatement or remedial work.

PRAYER FOR RELIEF

WHEREFORE, CALRECYCLE prays for judgment as follows:

1. That an administrative penalty be assessed against RESPONDENT for $965,000.00.

2. That additional penalties be assessed against RESPONDENT for continuing violations according to proof, and such other and further relief as the director, or an administrative law judge, if the hearing is converted to a formal hearing, deems just and proper.

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[6] Pursuant to the penalty schedule set forth in Title 14 CCR section 18429, Table 5, the following penalty was calculated for RESPONDENT: two violations of Title 14 CCR § 17353 x $5,000.00 + six violations of Title 14 CCR § 17354 x $5,000.00 + five violations of waste tire facility permit conditions x $5,000.00 = $65,000.00.

3. That RESPONDENT reimburse CALRECYCLE for the costs of additional inspections conducted pursuant to PRC section 42852(b), including the cost of preparing for the inspection, traveling to and from the inspection, and writing the inspection reports.

RIGHT TO HEARING

On June 27, 2014, Stephen Krauss of Golden By-Products, was personally served with the *Administrative Complaint For Waste Tire Storage Penalties* ("Administrative Complaint"). The Administrative Complaint notified you that pursuant to the provisions of PRC section 42851 and Government Code section 11506, you are entitled to a hearing to refute the allegations against you contained in the Administrative Complaint. On July 10, 2014, Stephen Krauss of Golden By-Products, filed a Notice of Defense and requested a hearing in this matter. A hearing is calendared for September 10-12, 2014, at 10:00 a.m. at the Department of Resources Recycling and Recovery (CalRecycle) Office, 801 K Street, 19th Floor, Room 1919, Sacramento, California 95814. It is not necessary to request a new hearing in response to this First Amended Administrative Complaint.

Pursuant to the above referenced Public Resources Code and Government Code sections, discovery requests by any party must be made within thirty days after the service of this First Amended Administrative Complaint.

Dated this 27th day of August, 2014.

MARTHA PEREZ
Attorney for
Department of Resources Recycling and
Recovery (CALRECYCLE)