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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. IH-14-008-TIR** **NOTICE OF SETTLEMENT (Gov. Code § 11415.60)** **AGENCY NO. 2014-011166-ADC**

TO THE CALRECYLE LEGAL OFFICE, HEARING OFFICER, AND ALL PARTIES:

PLEASE TAKE NOTICE that this case has been settled. Complainant, California Department of Resources Recycling and Recovery, and Respondent, Golden By-Products, Inc., have signed a final written agreement resolving this case.

A true and correct copy of the signed Stipulated Settlement Agreement (Stipulation for Waste Tire Storage Administrative Penalties) and Final Agency Decision (Administrative Decision Pursuant to Stipulation For Waste Tire Storage Administrative Penalties) are attached hereto and incorporated by reference as Exhibit 1.

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The Department of Resources Recycling and Recovery hereby requests that the CalRecycle Legal Office vacate all hearing dates and take the entire case off calendar.

Dated this 13th day of October, 2014.

Respectfully submitted,

MARTHA PEREZ
Attorney for Complainant

EXHIBIT 1

ELLIOT BLOCK SBN 116999
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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** **STIPULATION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES** **AGENCY NO. 2014-011166-ADC**

INTRODUCTION AND PROCEDURAL HISTORY

The California Integrated Waste Management Board ("CIWMB") is now the Department of Resources Recycling and Recovery (hereafter, "CalRecycle"). CalRecycle succeeded to the CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (Pub. Resources Code) section 40401(a)(1). The parties to this STIPULATION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (hereafter, "Stipulation") are CalRecycle and Golden By-Products, Inc. (hereafter, "Golden By-Products").

On June 27, 2014, an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Administrative Complaint") seeking $730,000.00

was issued against Respondent, Golden By-Products. On July 10, 2014, Stephen Krauss, representative for Respondent, Golden By-Products, filed a REQUEST FOR HEARING/NOTICE OF DEFENSE with the CalRecycle Legal Office. An informal hearing was scheduled for September 10, 11 and 12, 2014, at 10:00 a.m. at CalRecycle's offices, located at 801 K Street, 19th Floor, Room 1919, Sacramento, California 95814. On August 27, 2014, a FIRST AMENDED ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Amended Complaint") seeking $965,000.00 was issued against Repondent, Golden By-Products.

From the time period beginning on or around August 1, 2014 and continuing thereafter, CalRecycle and Golden By-Products (hereafter, referred to collectively as "the Parties") took part in discussions regarding possible settlement of this matter. In order to continue settlement discussions in this matter, on September 4, 2014, the Parties submitted a JOINT REQUEST FOR CONTINUANCE OF HEARING DATE requesting that the September 10, 11, and 12, 2014 hearing be continued to October 15, 16, and 17, 2014. On September 4, 2014, Hearing Officer Thomas W. Vallance, issued an ORDER GRANTING CONTINUANCE AND NOTICE OF HEARING continuing the hearing until October 15, 16, and 17, 2014, at 10:00 a.m., CalRecycle, 801 K Street, Room 1919 (DOR Training Room), Sacramento, California 95814.

In order to avoid the extensive time and costs of litigation in this matter, the Parties desire to settle all claims and disputes between them. The Parties understand, acknowledge and agree to the facts and terms of this Stipulation, and hereby submit this Stipulation as final resolution of this matter.

FACTUAL BACKGROUND

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").

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2. Golden By-Products is a "Major waste tire facility" as that term is defined in Pub. Resources Code section 42808(b).

3. On July 6, 2009, CALRECYCLE issued Golden By-Products 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 waste tires larger than 2 inches in diameter) (150,000 passenger tire equivalents (PTE[1])), and 8,500 tons of other material, as that material is described in the Major WTFP.

4. From November 6, 2013, and until the present, Golden By-Products has stored in excess of 150,000 PTE of whole waste tires and/or altered waste tires on the Site.

5. 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 the 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 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

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[1] "Passenger Tire Equivalents" (PTE) is defined as, "the total weight of altered waste tires, in pounds, divided by 20 pounds." (Cal. Code regs. tit. 14, section 17225.770.)

[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.

waste tire and altered waste tire (greater than two inches in diameter) count of approximately 466,868 PTE were being stored on the Site. Golden By-Products was issued a Notice of Violation for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP, and was povidied a compliance deadline date of March 3, 2014.

6. 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 the Site to perform a re-inspection of the Site. 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. 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 PTE were being stored on the Site. Golden By-Products was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP. Violations noted during the November 6, 2013 inspection were still outstanding. Inspection Report #IW-1010048 was mailed to Golden By-Products first-class United States Postal Service (USPS) certified mail on March 14, 2014.

7. On March 14, 2014, CalRecycle issued Cleanup and Abatement Order (hereafter, referred to as "CAO") 2014-011034-CAO to Golden By-Products for violating waste tire storage laws and regulations, and for capacity violations related to Golden By-Products' Major WTFP. Golden By-Products was served with the CAO on or around March 17-18, 2014. The CAO ordered Golden By-Products 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 Golden By-Products 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."

8. 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 the Site to perform a follow-up inspection to determine 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 PTE were being stored on the Site.

Golden By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, vector control measures, and other terms and conditions of its Major WTFP. Report #IW-1011032 was was sent electronic mail to Steve Krauss of Golden By-Products on May 12, 2014, and USPS first-class mail on May 13, 2014.

9. 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 the Site to determine 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. 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 PTE were being stored on the Site. Golden By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP. 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.

10. 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 the Site to conduct a pre-permit inspection and determine 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. 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 PTE were being

stored on the Site. Golden By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, fire prevention measures, and other terms and conditions of its Major WTFP. Inspection Report #IW-1011953 was sent electronic mail and first-class USPS mail to Steve Krauss of Golden By-Products on June 27, 2014.

11. Golden By-Products' Major WTFP expired on July 6, 2014.

12. 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 the Site to perform an inspection to determine compliance with state minimum standards and waste tires laws as set forth in Chapter 16 of the Pub. Resources Code. 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 PTE were being stored on the Site. Golden By-Products was issued a Notice of Violation for violations specific to storage of waste tires outdoors, fire prevention measures, 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 USPS first-class mail on August 15, 2014, and electronic mail to Karen Barstow of Golden By-Products on August 19, 2014.

13. On August 15, 2014, CalRecycle issued a subsequent Cleanup and Abatement Order 2014-011036-CAO (hereafter, referred to as "August 2014 CAO") to Golden By-Products 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. Golden By-Products was served with the CAO on or around August 19, 2014. The August 2014 CAO ordered Golden By-Products 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 PUB. RESOURCES CODE 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.)

STIPULATED ORDER

The Parties acknowledge and agree to the following terms in full and complete settlement of this matter:

1. Golden By-Products shall not accept any waste tires at the Site, until all of the following conditions are met:

   a. CalRecycle inspectors perform an inspection of the Site and CalRecycle provides written notice to Golden By-Products verifying the following:

      i. The facility is storing less than 2,000 tons (200,000 PTE) of "whole waste tires" and less than 6,500 tons of "altered waste tires," as those terms are defined below;

      ii. Whole waste tires at the Site are restricted to individual piles not exceeding 5,000 square feet of contiguous area. Piles do not exceed 50,000 cubic feet in volume nor 10 feet in height. Whole waste tires are separated from vegetation and other potentially flammable materials by no less than 40 feet.

   b. CalRecycle provides written notice to Golden By-Products verifying the following:

      i. Golden By-Products has provided acceptable written documentation to CalRecycle showing that Golden By-Products has made arrangements to take up to 500 tons (5,000 PTE) of waste tires per week, for 10 weeks, to landfills or other facilities

authorized to take waste tires. Written documentation includes, but is not limited to: (1) letter(s) from landfills or other facilities agreeing to accept waste tires, or (2) contract(s) from landfills or other facilities agreeing to accept waste tires.

2. A failure to comply with the requirements set forth in paragraph 1.a. and 1.b. above will result in a partial default of this Stipulation and Golden By-Products must immediately cease accepting waste tires at the Site. In addition, Golden By-Products may not apply for a Major Waste Tire Facility Permit for three years from the effective date of the Administrative Decision issued pursuant to this Stipulation.

3. CalRecycle may revoke Golden By-Products' authorization to accept waste tires at the Site at any time, by providing written notice to Golden By-Products.

4. Beginning on or before November 17, 2014, Golden By-Products shall store no more than 2,000 tons (200,000 PTE) of whole waste tires and 6,500 tons of altered waste tires at the Site. Failure to comply with this term will result in an automatic partial default penalty of $10,000 against Golden By-Products and in favor of CalRecycle.

5. Beginning on or before November 17, 2014, Golden By-Products shall comply with the whole waste tire storage requirements as specified above in paragraph 1.a.ii. Failure to comply with this term will result in an automatic partial default penalty of $25,000 against Golden By-Products and in favor of CalRecycle.

6. Beginning on or before December 2, 2014, Golden By-Products shall store no more than 1,000 tons (100,000 PTE) of whole waste tires and 6,500 tons of altered waste tires at the Site. Failure to comply with this term will result in an automatic partial default penalty of $50,000 against Golden By-Products and in favor of CalRecycle.

7. Effective immediately, Golden By-Products shall contact CalRecycle's enforcement staff within 24 hours of any event resulting in substantial downtime at the Site, excluding routine maintenance. At minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at

Bill.Albert@CalRecycle.ca.gov.

8. Effective immediately, Golden By-Products shall contact CalRecycle's enforcement staff within 24 hours of any major accident or incident of fire at the Site. At minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at Bill.Albert@CalRecycle.ca.gov.

9. Golden By-Products agrees to continue providing weekly updates on daily incoming and outgoing tonnage records for all waste tires/PTE to CalRecycle, as ordered in the March 14, 2014 CAO (2014-011034-CAO).

10. On or before January 1, 2015, Golden By-Products shall apply for a major waste tire facility permit (hereafter, referred to as "Major WTFP") subject to the following conditions:

a. Golden By-Products will submit a Major WTFP application (hereafter, referred to as "permit application") to CalRecycle pursuant to the requirements set forth in Title 14 California Code of Regulations ("CCR"), Division 7, Chapter 6, Article 2 (Filing an Application) and Article 4 (Permit Application);

b. Golden By-Products will meet all state minimum standard requirements as outlined in Title 14 CCR, Division 7, Chapter 3, Article 5.5 (Waste Tire Storage and Disposal Standards) including but not limited to, an adequate water supply capable of delivering at least 2,000 gpm for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000 PTE;

c. Golden By-Products will increase its financial assurance mechanisms in its permit application to at least $160,000, with a "surety bond," as set forth in Title 14 CCR sections 18471(a)(7) and 18475, to ensure adequate financial ability to conduct closure activities of the Major Waste Tire Facility. If Golden By-Products is unable to secure a surety bond for $160,000, Golden By-Products must submit to CalRecycle acceptable

written documentation showing inability to secure the $160,000 surety bond. At all such times as Golden By-Products does not have a $160,000 surety bond, Golden By-Products must have an existing escrow account to cover the costs associated with closure activities of the Major Waste Tire Facility that are not covered by an existing surety bond. Escrow instructions must include the following provision: "Funds in the escrow account shall be released to the Department of Resources Recycling and Recovery (CalRecycle) upon notice of Golden By-Products, Inc.'s failure to conduct closure activities." Golden By-Products must secure the $160,000 surety bond within six months from applying for the Major WTFP. A violation of this condition will result in a partial default.

d. CalRecycle will have 30 days to accept the permit application as complete, or reject the permit application.

e. CalRecycle may reject the permit application for any of the following:

   i. Golden By-Products' failure to meet the requirements as specified above in paragraph 10.a., 10.b. and 10.c.

   ii. Golden By-Products' failure to meet any of the terms and conditions of this Stipulation.

   iii. Golden By-Products' failure to submit a permit application that reflects the Site's current operation.

   iv. Golden By-Products' failure to maintain whole waste tire storage limits at or below 1,000 tons (100,000 PTE) and 6,500 tons of altered waste tires.

f. If CalRecycle rejects the permit application, CalRecycle will notify Golden By-Products, in writing, enumerating the grounds for rejection. Golden By-Products will have 30 days to cure a rejected permit application. Failure to cure a rejected permit application within 30 days, will result in an automatic partial default penalty of $2,500 against Golden By-Products,

and in favor of CalRecycle.

g. March 15, 2015 is the deadline for the permit application to be accepted by CalRecycle.

11. If after March 15, 2015, CalRecycle has not accepted the application as complete, Golden By-Products shall reduce the the number of whole waste tires and altered waste tires at the Site to less than 499 PTE. Golden By-Products will have 60 days from March 15, 2015 to clean up, remove, and abate the effects of waste tires at the Site to less than 499 PTE. Golden By-Products may enact its cleanup bond to pay for cleanup costs associated with landfill fees, hauling costs, equipment rental cost, and fuel and power costs.

12. In the event Golden By-Products is required to clean up, remove and abate the effects of waste tires at the Site and does not do so and waste tires are cleaned up, abated, or any other necessary remedial action is taken by CalRecycle, Golden By-Products shall grant access to CalRecycle, or any authorized agent of CalRecycle, to enter onto the site upon which waste tires are unlawfully stored, stockpiled, or accumulated, to perform all necessary cleanup, abatement, or remedial work as authorized under Pub. Resources Code § 42846. Golden By-Products agrees to be liable to CalRecycle to the extent of the costs actually incurred in cleaning up the waste tires, abating the effects thereof, or taking any other remedial actions to remediate the site.

13. At all such times as Golden By-Products is in substantial compliance with the terms and conditions set forth in this Stipulation, Golden By-Products will remain a reliable contractor and shall not be required to declare on a CalRecycle Form 168 that any of the events listed in that form have occurred.

TERMS AND CONDITIONS REGARDING SATISFACTION OF PENALTY

14. Pursuant to the terms and conditions of this Stipulation, and subject to the limitations hereunder, Golden By-Products stipulates to an administrative penalty of

$965,000.00 for the violations set forth in this Stipulation. Payment of the penalty shall be satisfied in the following manner:

a) Golden By-Products shall pay $200,000 to CalRecycle in the following manner:

i. Golden By-Products will pay to CalRecycle the initial sum of $20,000 on or before the 30th day after the effective date of the Administrative Decision issued pursuant to this Stipulation.

ii. Golden By-Products will make 12 monthly payments to CalRecycle of $1,000 starting on or before the 60th day after the effective date of the Administrative Decision issued pursuant to this Stipulation. Thereafter, Golden By-Products will make monthly payments to CalRecycle of $4000, until the total amount of said payments, together with the initial $20,000 payment, totals $200,000.

iii. All payments shall be sent to: CalRecycle, Attn: Richard Guess, P.O. Box 4025, Sacramento, CA 95812-4025, or to such person and/or place as CalRecycle or its agent may from time to time designate in writing.

iv. If any payment by Golden By-Products is not mailed to CalRecycle by the due date, and if Golden By-Products fails to cure the missed payment(s) within twenty (20) days of said missed payment, Golden By-Products shall be found in partial default of this Stipulation and shall pay an automatic partial default penalty of $10,000.

15. Golden By-Products and CalRecycle agree that the remaining administrative penalty of $765,000 shall be suspended and stayed for a period of five years. The stayed penalty shall be deemed terminated and shall not be paid by Golden By-Products following the five-year period, absent a default as described below, or a violation of the waste tire laws, rules, and regulations set forth in Chapter 16

commencing with Pub. Resources Code § 42800 et seq.), Chapter 19 (commencing with Pub. Resources Code § 42950 et seq.), and Title 14 CCR, Division 7.

GENERAL TERMS AND DEFINITIONS

16. The Parties agree the following will apply to a full default or partial default of this Stipulation:

a) **Full Default**: Unless otherwise specified, Golden By-Products is in full default of this Stipulation if Golden By-Products fails to comply with the terms and conditions set forth in this Stipulation. In the event that CalRecycle discovers a default of this Stipulation, CalRecycle shall notify Golden By-Products by issuing a Notice of Default. Golden By-Products will have 30 days from the date of issuance of the Notice of Default to respond to CalRecycle's allegations and provide evidence refuting CalRecycle's claim of default. CalRecycle will review all counterarguments and evidence provided by Golden By-Products and will make a determination as to whether a default occurred, and if appropriate, shall issue a Supplemental Administrative Decision ordering the remaining abeyance penalty amount due and payable. Golden By-Products may appeal CalRecycle's determination within 30 days of the issuance of the Supplemental Administrative Decision. Any and all appeals shall be heard by CalRecycle's Director or the Director's designee.

b) **Partial Default**: In the event of a partial default, CalRecycle shall notify Golden By-Products by issuing a Notice of Default and shall state the amount of penalties due. Golden By-Products will have 30 days from the date of issuance of the Notice of Default to respond to CalRecycle's allegations and provide evidence refuting CalRecycle's claim of default. Upon review of counter arguments, CalRecycle shall either advise Golden By-Products that it has determined no default occurred, or shall issue an invoice ordering Golden By-Products to pay the specific penalty within 30 days. If Golden By-Products is in partial default of the Stipulation and is ordered to pay a partial default fine

AND fails to do so within 30 days, the failure to pay shall constitute a full default of the Stipulation and the remaining abeyance penalty amount shall become due and payable.

17. The Parties agree the following definitions will apply for purposes of compliance with this Stipulation:

a) As used in this Stipulation, "whole waste tires" includes processed waste tires that measure larger than a ¼ inch in size and are stored in piles or other methods, but does not include processed waste tires that measure larger than a ¼ inch in size that are stored in super-sacks, bins, or boxes.

b) As used in this Stipulation, "altered waste tires" includes processed waste tires that measure larger than a ¼ inch in size and less than two inches in size, and are stored in super-sacks, bins, or boxes.

18. The Parties agree that the execution of this Stipulation is done entirely for the purpose of compromise and settlement of the proceeding described above.

19. Nothing shall be implied in this Stipulation that shall preclude CalRecycle, CalRecycle's Director, or an agent designated by the Director from using any enforcement mechanism, whether administrative, civil, or criminal, should Golden By-Products commit future violations of the laws, rules, and regulations set forth in Chapter 16 commencing with Pub. Resources Code § 42800 et seq.), Chapter 19 (commencing with Pub. Resources Code § 42950 et seq.), and Title 14 CCR, Division 7.

20. The Parties agree that any and all enforcement actions taken by CalRecycle and all rights or remedies available under CalRecycle's statutory and regulatory authority pertaining to waste tires and waste tire hauler registration, are independent of CalRecycle's actions taken on any loans issued by CalRecycle to Golden By-Products.

21. The Administrative Decision issued pursuant to this Stipulation is considered a final order that can be used in subsequent enforcement actions as the basis for increased penalties.

22. No covenant, promise, term, condition, breach, or default of, or under this Stipulation shall be deemed to have been waived except as expressly so stated in writing by CalRecycle. A waiver by CalRecycle of any breach or default by Golden By-Products under this Stipulation shall not be deemed a waiver of any proceeding or subsequent breach or default.

23. Golden By-Products has freely and voluntarily entered into this Stipulation and has been afforded the opportunity to seek and consult with counsel prior to entering into this Stipulation. It is expressly understood and agreed that no representations or promises of any kind, other than as contained herein, have been made by any party to induce any other party to enter into this Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise changed except by a writing executed by each of the Parties hereto. The Parties hereto agree to execute and deliver any and all documents and to take any and all actions necessary or appropriate to consummate this Stipulation and to carry out its terms and provisions

24. Except as expressly provided herein, Golden By-Products waives the right in the entitled matter to a hearing, any and all appeals, and any and all rights that may be afforded pursuant to the Pub. Resources Code, the Administrative Procedure Act, or any other provision of law regarding the express provisions of this Stipulation.

25. The terms of this Stipulation shall be binding upon the Parties and inure to the benefit of their representative, successors, heirs, and assigns.

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

27. This Stipulation shall not have, or be construed to have, any precedential effect with respect to any present or future litigation by and between the Parties.

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

Dated: 10/13/2014

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

Dated: 10-13-14

MARTHA PEREZ
Attorney for
DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE)

Dated: Oct 9, 2014

Karen Barstow
Chief Financial Officer
GOLDEN BY-PRODUCTS, INC.

Dated: 10-9-14

Brett Barstow
Chief Executive Officer
GOLDEN BY-PRODUCTS, INC.

ELLIOT BLOCK SBN 116999
Chief Counsel
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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** **ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES** **AGENCY NO. 2014-011166-ADC**

INTRODUCTION

The California Department of Resources Recycling and Recovery (hereafter, "CalRecycle") has authority to regulate and conduct enforcement actions against waste tire facilities and waste tire haulers within the State of California pursuant to Public Resources Code (PRC) sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title 14 of the California Code of Regulations ("CCR"). This ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (hereafter, "Administrative Decision") is issued pursuant to the STIPULATION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (hereafter, "Stipulation") entered into by Golden By-Products, Inc., Property Owner and

Operator, (hereafter, referred to as "Respondent" or Golden By-Products") and CALRECYCLE.

Pursuant to PRC section 42851, CALREYCLE issued an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Administrative Complaint") seeking $730,000.00 against Respondent on June 27, 2014. On July 10, 2014, Stephen Krauss, representative for Respondent filed a REQUEST FOR HEARING/NOTICE OF DEFENSE with the CalRecycle Legal Office. An informal hearing was scheduled for September 10, 11 and 12, 2014, at 10:00 a.m. at CalRecycle's offices, located at 801 K Street, 19th Floor, Room 1919, Sacramento, California 95814. On August 27, 2014, CALRECYCLE issued a FIRST AMENDED ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Amended Complaint") seeking $965,000.00 against RESPONDENT.

From the time period beginning on or around August 1, 2014 and continuing thereafter, CalRecycle and Golden By-Products (hereafter, referred to collectively as "the Parties") took part in discussions regarding possible settlement of this matter. In order to continue settlement discussions in this matter, on September 4, 2014, the Parties submitted a JOINT REQUEST FOR CONTINUANCE OF HEARING DATE requesting that the September 10, 11, and 12, 2014 hearing be continued to October 15, 16, and 17, 2014. On September 4, 2014, Hearing Officer Thomas W. Vallance, issued an ORDER GRANTING CONTINUANCE AND NOTICE OF HEARING continuing the hearing until October 15, 16, and 17, 2014, at 10:00 a.m., CalRecycle, 801 K Street, Room 1919 (DOR Training Room), Sacramento, California 95814.

The Parties negotiated a Stipulation in lieu of litigating the case at an administrative hearing. Good cause appearing therefore, the following Findings of Fact and Conclusions of Law are made.

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FINDINGS OF FACT

1. The Administrative Complaint was executed by MARTHA PEREZ, Staff Counsel, CALRECYCLE, acting in her official capacity.

2. CALRECYCLE has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Haulers and Waste Tire Facilities within the State of California under PRC section 42800, et seq., 42950 et seq., and attendant regulations contained in Title 14 of the California Code of Regulations (CCR). 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").

3. Golden By-Products is a "Major waste tire facility" as that term is defined in Pub. Resources Code section 42808(b).

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

5. On July 6, 2009, CALRECYCLE issued Golden By-Products 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 waste tires larger than 2 inches in diameter) (150,000 passenger tire equivalents (PTE[1])), and 8,500 tons of other material, as that material is described in the Major WTFP.

6. From November 6, 2013, and until the present, Golden By-Products has stored in excess of 150,000 PTE of whole waste tires and/or altered waste tires on the Site.

7. On November 6, 2013, at 1:30 pm, Merced County Environmental Health inspectors Esperanza Cabrera-Clark, Paul Wrighton, and supervisor Vickie Jones,

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[1] "Passenger Tire Equivalents" (PTE) is defined as, "the total weight of altered waste tires, in pounds, divided by 20 pounds." (Cal. Code regs. tit. 14, section 17225.770.)

along with CalRecycle inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean Whalen, and Mathew Vipond performed a routine inspection of the Site. Also in attendance performing a separate fire safety inspection of the site was Merced County Fire Marshal, Hank Moore. 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 PTE were being stored on the Site. Golden By-Products was issued a Notice of Violation for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP, and was provided a compliance deadline date of March 3, 2014.

8. On March 5, 2014, Merced County inspector Esperanza Cabrera-Clark and CalRecycle Inspectors Steve Dolan, Robert Baumann, Jean Whalen, Mathew Vipond, and Dustin Schiavo performed a re-inspection of the Site. Also in attendance during this inspection were Margie Comotto and Kevin Taylor, of CalRecycle's permitting division. 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 PTE were being stored on the Site. Golden By-Products was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP. Violations noted during the November 6, 2013 inspection were still outstanding. Inspection Report #IW-1010048 was mailed to Golden By-Products first-class United States Postal Service (USPS) certified mail on March 14, 2014.

9. On March 14, 2014, CalRecycle issued Cleanup and Abatement Order (hereafter, referred to as "CAO") 2014-011034-CAO to Golden By-Products for violating waste tire storage laws and regulations, and for capacity violations related to Golden By-Products' Major WTFP. Golden By-Products was served with the CAO on or around March 17-18, 2014. The CAO ordered Golden By-Products 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 Golden By-Products 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."

10. 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 performed a follow-up inspection of the Site to determine compliance with the CAO. Also in attendance during this inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance – Central Unit. 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 PTE were being stored on the Site. Golden By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, vector control measures, and other terms and conditions of its Major WTFP. Report #IW-1011032 was sent electronic mail to Steve Krauss of Golden By-Products on May 12, 2014, and USPS first-class mail on May 13, 2014.

11. 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 performed another follow-up inspection of the Site to determine compliance with the CAO. Also in attendance during this inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance – Central Unit. 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 PTE were being stored on the Site. Golden

By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of its Major WTFP. 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.

12. 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 performed a pre-permit inspection of the Site and a follow-up inspection to determine compliance with the CAO. Also in attendance performing a separate fire safety inspection of the site was Merced County Fire Marshal, Hank Moore. 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 PTE were being stored on the Site. Golden By-Products was in violation of the CAO and was cited for violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, fire prevention measures, and other terms and conditions of its Major WTFP. Inspection Report #IW-1011953 was sent electronic mail and first-class USPS mail to Steve Krauss of Golden By-Products on June 27, 2014.

13. Golden By-Products' Major WTFP expired on July 6, 2014.

14. 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 performed an inspection of the Site to determine compliance with state minimum standards and waste tires laws as set forth in Chapter 16 of the Pub. Resources Code. Also in attendance during this inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance – Central Unit. 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 PTE were being

stored on the Site. Golden By-Products was issued a Notice of Violation for violations specific to storage of waste tires outdoors, fire prevention measures, 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 USPS first-class mail on August 15, 2014, and electronic mail to Karen Barstow of Golden By-Products on August 19, 2014.

15. On August 15, 2014, CalRecycle issued a subsequent Cleanup and Abatement Order 2014-011036-CAO (hereafter, referred to as "August 2014 CAO") to Golden By-Products 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. Golden By-Products was served with the CAO on or around August 19, 2014. The August 2014 CAO ordered Golden By-Products 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 PUB. RESOURCES CODE 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.)

CONCLUSIONS OF LAW

16. Golden By-Products violated PRC section 42845, cleanup, abate the effects of waste tires, or take other remedial action as necessary upon ordered by the Department [CalRecycle] in the CAO and the August 2014 CAO, PRC section 42850(a), complying with the terms and conditions of the Major WTFP, Title 14 CCR section 17353(a), vector control measures, and Title 14 CCR section 17354, outdoor storage requirements, including pile size, fire lane, and rim removal requirements.

ORDER

CalRecycle hereby approves of and adopts the Stipulation, including the stipulated factual background and the stipulated order, including the terms and conditions regarding satisfaction of penalty, and the general terms and conditions. The

following Order is hereby made:

1. Golden By-Products shall not accept any waste tires at the Site, until all of the following conditions are met:

a. CalRecycle inspectors perform an inspection of the Site and CalRecycle provides written notice to Golden By-Products verifying the following:

i. The facility is storing less than 2,000 tons (200,000 PTE) of "whole waste tires" and less than 6,500 tons of "altered waste tires," as those terms are defined below;

ii. Whole waste tires at the Site are restricted to individual piles not exceeding 5,000 square feet of contiguous area. Piles do not exceed 50,000 cubic feet in volume nor 10 feet in height. Whole waste tires are separated from vegetation and other potentially flammable materials by no less than 40 feet.

b. CalRecycle provides written notice to Golden By-Products verifying the following:

i. Golden By-Products has provided acceptable written documentation to CalRecycle showing that Golden By-Products has made arrangements to take up to 500 tons (5,000 PTE) of waste tires per week, for 10 weeks, to landfills or other facilities authorized to take waste tires. Written documentation includes, but is not limited to: (1) letter(s) from landfills or other facilities agreeing to accept waste tires, or (2) contract(s) from landfills or other facilities agreeing to accept waste tires.

2. A failure to comply with the requirements set forth in paragraph 1.a. and 1.b. above will result in a partial default of this Stipulation and Golden By-Products must immediately cease accepting waste tires at the Site. In addition, Golden By-Products may not apply for a Major Waste Tire Facility Permit for three years from the effective date of the Administrative Decision issued pursuant to this Stipulation.

3. CalRecycle may revoke Golden By-Products' authorization to accept waste tires at the Site at any time, by providing written notice to Golden By-Products.

4. Beginning on or before November 17, 2014, Golden By-Products shall store no more than 2,000 tons (200,000 PTE) of whole waste tires and 6,500 tons of altered waste tires at the Site. Failure to comply with this term will result in an automatic partial default penalty of $10,000 against Golden By-Products and in favor of CalRecycle

5. Beginning on or before November 17, 2014, Golden By-Products shall comply with the whole waste tire storage requirements as specified above in paragraph 1.a.ii. Failure to comply with this term will result in an automatic partial default penalty of $25,000 against Golden By-Products and in favor of CalRecycle.

6. Beginning on or before December 2, 2014, Golden By-Products shall store no more than 1,000 tons (100,000 PTE) of whole waste tires and 6,500 tons of altered waste tires at the Site. Failure to comply with this term will result in an automatic partial default penalty of $50,000 against Golden By-Products, and in favor of CalRecycle.

7. Effective immediately, Golden By-Products shall contact CalRecycle's enforcement staff within 24 hours of any event resulting in substantial downtime at the Site, excluding routine maintenance. At minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at Bill.Albert@CalRecycle.ca.gov.

8. Effective immediately, Golden By-Products shall contact CalRecycle's enforcement staff within 24 hours of any major accident or incident of fire at the Site. At minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at Bill.Albert@CalRecycle.ca.gov.

9. Golden By-Products agrees to continue providing weekly updates on daily incoming and outgoing tonnage records for all waste tires/PTE to CalRecycle, as ordered in the March 14, 2014 CAO (2014-011034-CAO).

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10. On or before January 1, 2015, Golden By-Products shall apply for a major waste tire facility permit (hereafter, referred to as "Major WTFP") subject to the following conditions:

a. Golden By-Products will submit a Major WTFP application (hereafter, referred to as "permit application") to CalRecycle pursuant to the requirements set forth in Title 14 California Code of Regulations ("CCR"), Division 7, Chapter 6, Article 2 (Filing an Application) and Article 4 (Permit Application);

b. Golden By-Products will meet all state minimum standard requirements as outlined in Title 14 CCR, Division 7, Chapter 3, Article 5.5 (Waste Tire Storage and Disposal Standards) including but not limited to, an adequate water supply capable of delivering at least 2,000 gpm for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000 PTE; and

c. Golden By-Products will increase its financial assurance mechanisms in its permit application to at least $160,000, with a "surety bond," as that term is defined in Title 14 CCR section 18471(a)(7), to ensure adequate financial ability to conduct closure activities of the Major Waste Tire Facility. If Golden By-Products is unable to secure a surety bond for $160,000, Golden By-Products must submit to CalRecycle acceptable written documentation showing inability to secure the $160,000 surety bond. At all such times as Golden By-Products does not have a $160,000 surety bond, Golden By-Products must have an open escrow account to cover the costs associated with closure activities of the Major Waste Tire Facility. Golden By-Products must secure the $160,000 surety bond within six months from applying for the Major WTFP. A violation of this condition constitutes a partial default.

d. CalRecycle will have 30 days to accept the permit application as

complete, or reject the permit application.

e. CalRecycle may reject the permit application for any of the following:

i. Golden By-Products' failure to meet the requirements as specified above in paragraph 10.a., 10.b. and 10.c.

ii. Golden By-Products' failure to meet any of the terms and conditions of this Stipulation.

iii. Golden By-Products' failure to submit a permit application that reflects the Site's current operation.

iv. Golden By-Products' failure to maintain whole waste tire storage limits at or below 1,000 tons (100,000 PTE) and 6,500 tons of altered waste tires.

f. If CalRecycle rejects the permit application, CalRecycle will notify Golden By-Products, in writing, enumerating the grounds for rejection. Golden By-Products will have 30 days to cure a rejected permit application. Failure to cure a rejected permit application within 30 days, will result in an automatic partial default penalty of $2,500 against Golden By-Products, and in favor of CalRecycle.

g. March 15, 2015 is the deadline for the permit application to be accepted by CalRecycle.

11. If after March 15, 2015, CalRecycle has not accepted the application as complete, Golden By-Products shall reduce the number of whole waste tires and altered waste tires at the Site to less than 499 PTE. Golden By-Products will have 60 days from March 15, 2015 to clean up, remove, and abate the effects of waste tires at the Site to less than 499 PTE. Golden By-Products may enact its cleanup bond to pay for cleanup costs associated with landfill fees, hauling costs, equipment rental cost, and fuel and power costs.

12. In the event Golden By-Products is required to clean up, remove and abate the effects of waste tires at the Site and does not do so and waste tires are

cleaned up, abated, or any other necessary remedial action is taken by CalRecycle, Golden By-Products shall grant access to CalRecycle, or any authorized agent of CalRecycle, to enter onto the site upon which waste tires are unlawfully stored, stockpiled, or accumulated, to perform all necessary cleanup, abatement, or remedial work as authorized under Pub. Resources Code § 42846. Golden By-Products shall be liable to CalRecycle to the extent of the costs actually incurred in cleaning up the waste tires, abating the effects thereof, or taking any other remedial actions to remediate the site.

13. At all such times as Golden By-Products is in substantial compliance with the terms and conditions set forth in this Stipulation, Golden By-Products will remain a reliable contractor and shall not be required to declare on a CalRecycle Form 168 that any of the events listed in that form have occurred.

14. Golden By-Products shall pay $200,000 to CalRecycle in the following manner:

a) Golden By-Products shall pay to CalRecycle the initial sum of $20,000 on or before the 30th day after the effective date of the Administrative Decision issued pursuant to this Stipulation.

b) Golden By-Products shall make 12 monthly payments to CalRecycle of $1,000 starting on or before the 60th day after the effective date of the Administrative Decision issued pursuant to this Stipulation. Thereafter, Golden By-Products shall make monthly payments to CalRecycle of $4000, until the total amount of said payments, together with the initial $30,000 payment, totals $200,000.

c) All payments shall be sent to: CalRecycle, Attn: Richard Guess, P.O. Box 4025, Sacramento, CA 95812-4025, or to such person and/or place as CalRecycle or its agent may from time to time designate in writing.

d) If any payment by Golden By-Products is not mailed to CalRecycle by the due date, and if Golden By-Products fails to cure the missed payment(s) within

twenty (20) days of said missed payment, Golden By-Products shall be found in partial default of this Stipulation and shall pay an automatic partial default penalty of $10,000.

15. The remaining administrative penalty of $765,000 shall be suspended and stayed for a period of five years. The stayed penalty shall be deemed terminated and shall not be paid by Golden By-Products following the five-year period, absent a default as described below, or a violation of the waste tire laws, rules, and regulations set forth in Chapter 16 (commencing with Pub. Resources Code § 42800 et seq.), Chapter 19 (commencing with Pub. Resources Code § 42950 et seq.), and Title 14 CCR Division 7.

16. **Full Default**: Unless otherwise specified, Golden By-Products is in full default of this Stipulation if Golden By-Products fails to comply with the terms and conditions set forth in this Stipulation. In the event that CalRecycle discovers a default of this Stipulation, CalRecycle shall notify Golden By-Products by issuing a Notice of Default. Golden By-Products will have 30 days from the date of issuance of the Notice of Default to respond to CalRecycle's allegations and provide evidence refuting CalRecycle's claim of default. CalRecycle will review all counterarguments and evidence provided by Golden By-Products and will make a determination as to whether a default occurred, and if appropriate, shall issue a Supplemental Administrative Decision ordering the remaining abeyance penalty amount due and payable. Golden By-Products may appeal CalRecycle's determination within 30 days of the issuance of the Supplemental Administrative Decision. Any and all appeals shall be heard by CalRecycle's Director or the Director's designee.

17. **Partial Default**: In the event of a partial default, CalRecycle shall notify Golden By-Products by issuing a Notice of Default and shall state the amount of penalties due. Golden By-Products will have 30 days from the date of issuance of the Notice of Default to respond to CalRecycle's allegations and provide evidence refuting CalRecycle's claim of default. Upon review of counter arguments, CalRecycle shall either advise Golden By-Products that it has determined no default occurred, or shall

issue an invoice ordering Golden By-Products to pay the specific penalty within 30 days. If Golden By-Products is in partial default of the Stipulation and is ordered to pay a partial default fine AND fails to do so within 30 days, the failure to pay shall constitute a full default of the Stipulation and the remaining abeyance penalty amount shall become due and payable.

This Administrative Decision shall become effective as of the date signed below.

Dated: 10/13/2014

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