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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12
13 WINGFOOT COMMERCIAL TIRE
14 SYSTEMS, LLC.

15
16 RESPONDENT

17
18 TPID NO.: 1002615-01
19

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2016-011184-ADC

20 INTRODUCTION

21 The California Integrated Waste Management Board (CIWMB) is now the California
22 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
23 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
24 (PRC) section 40401(a)(1).

25 This Administrative Complaint For Waste Tire Hauler Administrative Penalties
26 (hereafter, "Administrative Complaint") is issued by the CALRECYCLE to Wingfoot
27 Commercial Tire Systems, LLC. (hereafter referred to as "RESPONDENT") seeking
28 \$300,000.00. Pursuant to Public Resources Code (PRC) section 42962(c), CALRECYCLE is

1 authorized to administratively impose penalties on a person to whom civil liability may be
2 levied. This Administrative Complaint is so issued based on the following facts.

3 4 STATEMENT OF FACTS

5 1. CALRECYCLE has the authority to permit, regulate, and conduct enforcement
6 actions regarding waste tire facilities and waste tire haulers within the State of California
7 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in
8 Title 14 of the California Code of Regulations ("CCR").

9 2. A "Waste or Used Tire Hauler" or "Hauler" is defined as, "any person engaged in
10 the transportation of waste or used tires, or tire casings, including haulers that the Department
11 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (14
12 CCR section 18450(37).)

13 3. The "California Uniform Waste and Used Tire Manifest" is a form developed by
14 CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the
15 "Comprehensive Trip Log" or "CTL," or "manifest form." The CTL form is incorporated in the
16 regulations by 14 CCR section 18450(a)(11), and must be filled out completely and accurately,
17 including providing the Tire Program Identification (TPID) number for the location of delivery or
18 pick-up of each load of waste tires.

19 4. Pursuant to PRC section 42961.5(c)(2):

20 Any waste and used tire hauler hauling waste or used tires for
21 offsite handling, altering, storage, disposal, or any combination thereof,
22 shall complete the California Uniform Waste and Used Tire Manifest as
23 required by the board [CALRECYCLE]. The waste and used tire hauler
24 shall provide the manifest to the waste or used tire facility operator who
25 receives the waste or used tires for handling, altering, storage, disposal,
26 or any combination thereof. Each waste and used tire hauler shall submit
27 to the board [CALRECYCLE], on a quarterly schedule, a legible copy of
28 each manifest. The copy submitted to the board [CALRECYCLE] shall
contain the signatures of the generator and the facility operator.

5. Pursuant to 14 CCR section 18459.2.1:

(a) The waste tire hauler shall submit the completed original
CTL Form to the Department [CALRECYCLE] within ninety (90)

1 days of the load shipment. The Manifest Form shall be in the
2 waste tire hauler's possession while transporting used or waste
3 tires and shall be shown upon demand to any representative of
4 the Department [CALRECYCLE], any officer of the California
5 Highway Patrol, any peace officer, as defined in Sections 830.1 or
6 830.2 of the California Penal Code, or any local public officer
7 designated by the Department [CALRECYCLE].

8 (b) If approved by the Department [CALRECYCLE] pursuant
9 to PRC section 42961.5, any person that is subject to the
10 requirements set forth in above (a) may substitute their own
11 functionally equivalent EDT [Electronic Data Transfer] form, once
12 approved by the Department [CALRECYCLE], in lieu of the
13 Department [CALRECYCLE] required form and submit an
14 electronic report within ninety (90) days of the load shipment to
15 the Department [CALRECYCLE], in lieu of submitting the required
16 paper form pursuant to Section 18459.1.2. The electronic report
17 shall include all information required to be on the CTL Form.

18 6. 14 CCR section 18459(c)(1) requires waste or used tire haulers, hauling
19 any amount of waste or used tires at any one time in a registered vehicle, to comply
20 with the Waste Tire Manifest System.

21 7. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall
22 submit the completed original CTL Form to the Department within ninety (90) days of
23 the load shipment..."

24 8. 14 CCR section 18459(b) requires the CTL form be completed.

25 9. 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a
26 registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any
27 waste or used tires, shall not transport waste or used tires without a properly completed CTL
28 form, shall not transport waste or used tires without having a completed copy of the CTL form
in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL
form with the waste or used tire generator or end-use facility, and shall keep a copy of the
completed CTL form.

10. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste
tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,

1 requirement, or allows any violation or noncompliance with any permit, rule, regulation,
2 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,
3 transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

4 11. RESPONDENT has been a registered tire hauler since 1999.

5 12. On October 7, 2015, Tire Enforcement Agency (TEA) Inspector Angelica
6 Sandoval-Marin with San Joaquin County Environmental Health Department conducted a
7 routine inspection of RESPONDENT (TPID #1002615) located at 901 Darcy Parkway, Lathrop,
8 CA 95330, and observed 35 CTL forms that had not been submitted to CALRECYCLE at the
9 time of the inspection. Subsequent to receiving the October 7, 2015 Hauler Observation
10 Report, CALRECYCLE investigated the matter and verified that between January 22, 2015
11 and October 29, 2015 RESPONDENT failed to submit 35 CTL forms to CALRECYCLE within
12 the 90-day time period as required by PRC section 42961.5(c)(2). As of the effective date of
13 this Administrative Complaint, these CTL forms have not been submitted to CALRECYCLE.

14 13. On February 10, 2016, CALRECYCLE conducted an audit of RESPONDENT's
15 manifest forms submitted to CALRECYCLE for pick-ups and/or deliveries of waste and/or used
16 tires and determined that between December 22, 2015 and January 20, 2016, 85 CTL forms
17 had errors and/or omission reflecting an error rate of approximately 43.5 percent.

18
19 **35 COUNTS OF FAILING TO SUBMIT CTL FORMS/EDT RECORDS WITHIN 90 DAYS**

20 14. Between January 22, 2015 and October 29, 2015, RESPONDENT failed to
21 submit CTL Forms/EDT Records within 90 days to CALRECYCLE. The table below highlights
22 the violations by RESPONDENT:

23

Comprehensive Trip Log	Violation	Date of Transaction	Date of Violation
5636287	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	July 31, 2015	October 29, 2015
5636281	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	July 24, 2015	October 22, 2015
5636273	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	July 17, 2015	October 15, 2015

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5636269	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	July 10, 2015	October 8, 2015
5636242	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	June 26, 2015	September 24, 2015
5636240	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	June 19, 2015	September 17, 2015
5636235	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	June 12, 2015	September 10, 2015
5636230	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	June 5, 2015	September 3, 2015
5636217	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 29, 2015	August 27, 2015
4888958	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 22, 2015	August 20, 2015
5636209	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 22, 2015	August 20, 2015
5636203	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 15, 2015	August 13, 2015
5636199	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 8, 2015	August 6, 2015
5636178	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	May 1, 2015	July 30, 2015
5636170	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	April 10, 2015	July 9, 2015
5636153	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	March 27, 2015	June 25, 2015
5636143	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	March 20, 2015	June 18, 2015
5636137	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	March 13, 2015	June 11, 2015
5636129	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	March 6, 2015	June 4, 2015

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5636126	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	February 27, 2015	May 27, 2015
5636122	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	February 20, 2015	May 20, 2015
5636113	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	February 13, 2015	May 13, 2015
5636108	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	February 6, 2015	May 6, 2015
5237602	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	January 30, 2015	April 29, 2015
5237604	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	January 23, 2015	April 22, 2015
5237615	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	January 16, 2015	April 15, 2015
5237630	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	January 5, 2015	April 4, 2015
5237632	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	December 29, 2014	March 28, 2015
5237637	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	December 19, 2014	March 18, 2015
5237644	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	December 5, 2014	March 4, 2015
5237645	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	December 1, 2014	February 29, 2015
5237647	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	November 21, 2014	February 19, 2015
5237658	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	November 14, 2014	February 12, 2015
5237662	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	November 7, 2014	February 5, 2015
5239390	Failure to submit manifest forms to CalRecycle within the 90-day time requirement	October 24, 2014	January 22, 2015

1 **85 COUNTS OF SUBMITTING MANIFEST FORMS TO CALRECYCLE WITH ERRORS**
 2 **AND/OR OMISSIONS**

3 15. Between December 22, 2015 and January 20, 2016, 85 of RESPONDENT's CTL
 4 forms had errors and/or omissions, reflecting an error rate of approximately 43.5 percent. The
 5 table below highlights the violations by RESPONDENT:

Comprehensive Trip Log	Violation	Violation Date
5575351-A	Invalid facility TPID	January 20, 2016
5658196-A	Pickup or delivery not checked	January 19, 2016
5658188-Header	Invalid decal and license plate number	January 19, 2016
4917580	Invalid license plate number	January 18, 2016
4917580-A	Load type not checked	
5658210-A	Missing load amount	January 18, 2016
5658210-B	Missing load amount	
5561101	Invalid decal number;	January 18, 2016
5561101-A	Incomplete hauler phone number	
5561101-B	Incomplete hauler phone number, missing facility TPID	
5658221-A	Invalid facility TPID	January 18, 2016
5343332-B	Missing facility phone number	January 18, 2016
4918677	Invalid decal number	January 15, 2016
4918678	Invalid decal number	January 15, 2016
5646078	Missing decal number	January 15, 2016
5646077	Missing decal number	January 15, 2016
5658253	Invalid decal number	January 15, 2016
4917549-B	Missing facility phone number	January 15, 2016
4917550-B	Missing facility phone number	January 14, 2016
4917552-A	Missing facility phone number	January 14, 2016
4917552-B	Missing facility phone number	
5540394-A	Missing facility phone number	January 14, 2016
5540394-B	Missing facility phone number	
4917576-A	Incomplete facility address	January 14, 2016
4917576-B	Missing facility phone number	
4841276	Invalid decal number	January 14, 2016
5658181	Invalid decal number and license plate number	January 14, 2016
4841261	Invalid decal number	January 14, 2016
4917551-B	Missing facility phone number	January 13, 2016
5540399-A	Missing facility phone number	January 13, 2016
5540399-B	Missing facility phone number	
5646067	Invalid decal number	January 13, 2016
5646067-C	Pickup or delivery not checked, missing load date and amount, multiple load types marked	
4917731-B	Missing facility phone number	January 12, 2016
5658286-B	Incorrect facility TPID	January 12, 2016

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5658178	Invalid decal number	January 12, 2016
4918669	Invalid decal number	January 12, 2016
4918669-C	Load type not checked	
4841279	Invalid decal number	January 11, 2016
4667141	Invalid license plate number	January 11, 2016
4667141-A	Missing load type	
4667141-C	Missing load date and type	
4252861	Invalid decal number	January 11, 2016
4252861-A	Incomplete hauler phone number, missing facility phone number	
4252861-B	Incomplete hauler phone number	
4917733-B	Missing facility information	January 11, 2016
5658155-B	Missing load amount	January 11, 2016
5540397-A	Missing facility phone number	January 11, 2016
5540397-B	Missing facility phone number	
5646049	Invalid decal number	January 11, 2016
5646051	Invalid decal number	January 11, 2016
5646051-C	Pickup or delivery not checked	
4918536	Invalid decal number	January 11, 2016
4918536-C	Missing facility phone number	
5529943	Invalid decal number	January 9, 2016
5529943-A	Missing facility phone number	
5646048	Invalid decal number	January 8, 2016
5658271	Invalid decal number	January 8, 2016
4841123	Invalid decal number	January 8, 2016
4841123-B	Missing facility TPID	
4841122	Invalid decal number	January 8, 2016
4667146	Invalid license plate number	January 8, 2016
4841280	Invalid decal number	January 8, 2016
4841280-B	Load type not checked	
4841280-A	Load type not checked	
4918683-B	Missing facility phone number	January 8, 2016
4841282	Invalid decal number	January 7, 2016
4841282-A	Load type not checked	
4841282-B	Load type not checked	
4841282-C	Load type not checked	
4667148	Invalid decal number	January 7, 2016
4915725-C	Pickup or delivery not checked, missing facility phone number	January 6, 2016
4841281	Invalid decal number	January 5, 2016
4841281-B	Load type not checked	
5658334	Invalid decal number	January 5, 2016
4667139	Invalid license plate number	January 5, 2016
5514261	Invalid decal number	January 5, 2016
5646035	Invalid decal number; missing hauler business information	January 4, 2016
4915706	Invalid decal number	January 4, 2016
5514050	Invalid decal number	January 4, 2016
4915707	Invalid decal number	January 4, 2016
5658673	Invalid decal number	January 4, 2016

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5658343	Invalid decal number	January 4, 2016
5658713	Invalid decal number	January 4, 2016
5658268	Invalid decal number	January 4, 2016
5658268-B	Load types not checked	
5658293	Invalid decal number	January 4, 2016
5658293-A	Missing facility phone number	
5540400-A	Pickup or delivery not checked, Load type not checked	January 4, 2016
5540400-B	Load type not checked; missing facility phone number	
4917773-A	Missing facility TPID and phone number	January 4, 2016
4667014	Invalid license plate number	December 31, 2015
4667015	Invalid license plate number	December 30, 2015
4666996	Invalid license plate number	December 30, 2015
4917775-A	Load type not checked	December 30, 2015
4841300	Invalid decal number	December 30, 2015
4841300-C	Load type not checked	(header date)
5658675-A	Load type not checked, missing facility phone number	December 30, 2015
5513979	Invalid license plate number	December 30, 2015
5529737-A	Load type not checked	December 30, 2015
4917776-B	Load type not checked	December 29, 2015
5658866-A	Load type not checked	December 29, 2015
4841118-A	Load type not checked	December 29, 2015
4841118-B	Load type not checked	December 29, 2015
5658316-A	Load type not checked	December 29, 2015
5658746-A	Invalid facility TPID	December 28, 2015
5362372-B	Missing facility phone number	December 28, 2015
5658710-A	Invalid facility TPID	December 28, 2015
5658307-B	Load type not checked	December 24, 2015
4667018	Invalid license plate number	December 24, 2015
3364745	Missing business information (state)	December 23, 2015
3364745-A	Invalid hauler phone number	
3364745-B	Invalid hauler phone number; load type not checked	
4917769-B	Load type not checked	December 23, 2015
4917675-B	Missing facility phone number	December 23, 2015

5658318-B	Load type not checked	December 23, 2015
4841134-A	Pickup or delivery not checked	December 22, 2015

KNOWLEDGE OF HAULING AND MANIFESTING REQUIREMENTS

16. At the time of RESPONDENT's initial hauler registration and subsequently during the annual hauler registration renewal process, RESPONDENT was provided with instructions regarding the proper completion, retention, and delivery of CTL forms. At the time of RESPONDENT's initial registration and annually during the hauler registration renewal process, RESPONDENT received a hauler package containing the following: (1) instructions on transporting waste/used tires; (2) a complete list of hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and (3) a training compact disc on the proper storage and transportation of waste/used tires. RESPONDENT was also sent a CTL Guidance Manual, explaining in detail how to properly complete the CTL form, including the requirement to "manifest" (to document on the CTL form) all waste and used tire pickups and deliveries, and a Hauler Alert dated November 18, 2011, informing RESPONDENT of the zero tolerance policy applicable to transporting waste tires to unauthorized locations.

17. On June 9, 2008, the California Integrated Waste Management Board issued an Administrative Complaint (2007-010992-ADC) to RESPONDENT for submitting incorrect and/or incomplete manifest forms on 14 occasions between September 1, 2007 through September 15, 2007, in violation of PRC section 42961.5(c) and CCR section 18460.2(h).

18. On November 18, 2011, CALRECYCLE issued Streamlined Penalty Letter 2011-000320-PEN (SPL) to RESPONDENT for manifesting errors. The SPL offered RESPONDENT an opportunity to resolve the violations through settlement. The letter explained RESPONDENT's violations and offered an opportunity to avoid the cost and time of the administrative legal process by having RESPONDENT agree to the streamlined penalty process. RESPONDENT was offered a streamlined penalty in the amount of \$1,250.00, which was accepted and paid by RESPONDENT. On December 8, 2011, CALRECYCLE issued a

1 Stipulated Decision and Order to resolve the SPL, constituting the full resolution of the matter.
2 19. On January 14, 2013, August 4, 2014, and September 11, 2014, CALRECYCLE
3 issued separate Letters of Violation (LOV) to RESPONDENT for manifest errors and/or
4 omissions in violation of CCR section 18460.2. These LOVs notified RESPONDENT of its
5 errors and/or omissions and provided information on manifesting requirements.
6

7 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

8 20. CALRECYCLE is seeking administrative penalties of \$300,000.00, pursuant to
9 PRC section 42962(c) based on the aforementioned facts and for the following violations:

- 10 a. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by failing to
11 submit 35 CTL forms or EDT records within 90 days of tire shipments to
12 CALRECYCLE.
13 b. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by
14 submitting at least 85 manifest forms to CALRECYCLE with errors and/or
15 omissions.
16

17 **PENALTIES**

18 21. CALRECYCLE's authority to assess administrative penalties against
19 RESPONDENT as a waste and used tire hauler is set forth in PRC section 42962(c) and Title
20 14 CCR section 18463.

21 Pursuant to PRC section 42962(c):

22 In addition to the civil penalty that may be imposed pursuant to subdivision
23 (a), the board [CALRECYCLE] may impose civil penalties administratively
24 in an amount not to exceed five thousand dollars (\$5,000) for each violation
25 of a separate provision or for continuing violations for each day that
26 violation continues, on any person who intentionally or negligently violates
any permit, rule, regulation, standard, or requirement issued or adopted
pursuant to this chapter. . .

27 Title 14 CCR section 18463, provides in relevant part:

28 Any waste tire generator, end-use facility, or waste tire hauler, or any party
or person who commits any of the following acts shall be liable for a civil
penalty:

- 1 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
2 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
3 generation, transportation or disposal of used or waste tires.
- 4 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
5 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
6 Public Resources Code relating to the generation, transportation or disposal of
7 used or waste tires...

8 22. Due to RESPONDENT's prior violations that resulted in the June 9, 2008
9 Administrative Complaint and the November 18, 2011 SPL, RESPONDENT is liable for third
10 offense penalties based on its current violations resulting in this Administrative Complaint.

11 23. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
12 42961.5 with penalties ranging from \$1,500.00-\$2,500.00 per violation for a third offense.

13 24. RESPONDENT committed a third offense of 35 counts of failing to submit CTL
14 forms/EDT records within 90 days to CALRECYCLE.

15 25. RESPONDENT committed a third offense of 85 counts of submitting manifest
16 forms with errors and/or omissions to CALRECYCLE.

17 26. As required by Title 14 CCR section 18465, in determining an appropriate
18 administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the
19 following factors:

- 20 (1) The nature, circumstances, extent, and gravity of the violation.
- 21 (2) Evidence that the violation was willful or negligent.
- 22 (3) The good or bad faith exhibited by the party.
- 23 (4) History of violation of the same or similar nature.
- 24 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
25 in remediating the violation.
- 26 (6) The extent that the party has mitigated or attempted to mitigate any damage
27 or injury caused by his or her violation.
- 28 (7) Evidence of any financial gain resulting from the violation.
- (8) Such other matters as justice may require.

