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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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11 In the matter of:

12
13 K & L AMERICAN RECYCLE, LLC

14 RESPONDENT

15
16 TPID NO.: 1680916-01

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2014-011165-ADC

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18 INTRODUCTION

19 The California Department of Resources Recycling and Recovery ("CALRECYCLE")
20 issues this Administrative Complaint For Waste Tire Hauler Penalties (hereafter,
21 "Administrative Complaint") to *K & L AMERICAN RECYCLE, LLC* (hereafter "RESPONDENT")
22 seeking \$4,950.00. The California Integrated Waste Management Board ("CIWMB" or also
23 referred to as, the "Board") is now CALRECYCLE. CALRECYCLE succeeded to CIWMB's
24 authority on January 1, 2010, pursuant to Public Resources Code (PRC) sections 40400 and
25 40401(a)(1).

26 CALRECYCLE is authorized to inspect, permit, regulate, and conduct enforcement
27 actions against waste tire facilities and waste tire haulers within the State of California
28 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in

1 Title 14 of the California Code of Regulations (“CCR”). CALRECYCLE is authorized to issue
2 an administrative accusation for penalties to a person on whom civil liability may be imposed.
3 This Administrative Complaint is so issued based on the following facts.

4
5 **STATEMENT OF FACTS**

6 1. PRC section 42951 (b) prohibits registered waste tire haulers (haulers) from
7 transporting waste or used tires to a facility that is not “permitted, excluded, exempted, or
8 otherwise authorized by [CALRECYCLE], by statute, or by regulation, to accept waste and
9 used tires. . . .”

10 2. A “Used or Waste Tire Hauler” or “Hauler” is defined as, “any person engaged in
11 the transportation of used or waste tires, or tire casings, including haulers that the Department
12 approved as exempt from registration pursuant to Public Resources Code section 42954.”
13 (Title 14 CCR section 18450(a)(34).)

14 3. A minor Waste Tire Facility (WTF) is defined in PRC section 42808(c) as “a
15 [WTF] where, at any time, 500 or more, but less than 5,000, waste tires are or will be stored,
16 stockpiled, accumulated, or discarded.”

17 4. A major WTF is defined in PRC section 42808(b) as “a [WTF] where, at any time,
18 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded.”

19 5. PRC section 42823 and 14 CCR section 18420 both require operators and
20 owners of major WTFs to obtain a major WTF permit prior to the operation of a major WTF.

21 6. PRC section 42823 prohibits a person from establishing a new major WTF
22 without first obtaining a major WTF permit from CALRECYCLE.

23 7. PRC section 42824 makes it “unlawful to direct or transport waste tires to a major
24 [WTF] or to accept waste tires at a major [WTF] unless the operator has obtained a major
25 [WTF] permit” from CALRECYCLE.

26 8. PRC section 42834 makes it “unlawful to direct or transport waste tires to a minor
27 [WTF] or to accept waste tires at a minor [WTF] unless the operator has obtained a minor
28 [WTF] permit” from CALRECYCLE.

1 9. Pursuant to PRC section 42961.5(c)(2):

2 Any waste and used tire hauler hauling waste or used tires for
3 offsite handling, altering, storage, disposal, or any combination thereof,
4 shall complete the California Uniform Waste and Used Tire Manifest as
5 required by the board [CALRECYCLE]. The waste and used tire hauler
6 shall provide the manifest to the waste or used tire facility operator who
7 receives the waste or used tires for handling, altering, storage, disposal,
8 or any combination thereof. Each waste and used tire hauler shall
9 submit to the board [CALRECYCLE], on a quarterly schedule, a legible
10 copy of each manifest. The copy submitted to the board [CALRECYCLE]
11 shall contain the signatures of the generator and the facility operator.

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

17 11. 14 CCR section 18459(b) requires the CTL form be completed.

18 12. Title 14 CCR section 18460.2, subsections (b), (e), and (h), provide that a
19 registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any used
20 or waste tires, shall not transport used or waste tires without having a completed copy of the
21 form, and shall keep a copy of the completed CTL form.

22 13. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall submit the
23 completed original CTL Form to the Department within ninety (90) days of the load shipment. .
24 . ."

25 14. Pursuant to 14 CCR section 18456.2(b), upon approval of a waste and used tire
26 hauler application, CALRECYCLE shall "issue a] waste tire hauler registration card and decal
27 for each vehicle identified in the application." 14 CCR section 18456.2(c) states that
28 "[r]egistration cards and decals are not transferable from vehicle to vehicle. They shall be
present in the vehicle to which they were issued." 14 CCR section 18454(f) states, "The
registration card and/or decal issued to a specific vehicle are [sic] not transferable from vehicle
to vehicle. They shall be present in the vehicle to which they are issued."

1 15. Pursuant to PRC section 42956(a) upon approval of an application submitted
2 pursuant to PRC section 42955, CALRECYCLE shall issue a waste and used tire hauler
3 registration to be carried in the vehicle and a waste and used tire hauler decal to be
4 permanently affixed to the lower, right-hand corner of the windshield.

5 16. RESPONDENT became a registered waste tire hauler on December 5, 2011 and
6 continued to be registered in 2013. Upon initial registration and yearly renewals
7 RESPONDENT received a Hauler Alert regarding the transportation of waste tire to
8 unauthorized locations, a copy of Chapter 6, Article 8.5 regulation for waste tire hauler
9 registration and manifesting requirement, a tri-fold brochure explaining the hauler, generator,
10 and end-use facility operator requirements and a CTL Guidance Manual, Field Reference
11 Guide, and CTL forms. RESPONDENT also received decals and certificates for the tire
12 hauling vehicles upon initial registration and yearly renewals.

13
14 **FOUR COUNTS OF FAILING TO COMPLETE AND/OR SUBMIT A COMPREHENSIVE TRIP LOG**

15 17. On February 25, 2013, Inspectors Stan Chau and Roel Meregillano with the
16 Santa Clara County Department of Environmental Health conducted an inspection of
17 RESPONDENT's facility located at 681 Lenfest Road, San Jose, California, (the Site) as
18 documented in the Hauler Observation Report dated February 25, 2013. The Inspectors
19 observed at least 8,000 waste tires being baled at the the Site.

20 18. Later, on February 25, 2013, Inspector Chau located Mr. Tom Nguyen, at Senter
21 Tire Service; Mr. Nguyen advised that he was the manager of the Site. Mr. Nguyen stated that
22 he hired Mr. Lawrence Sweeney, at the request of RESPONDENT, to collect waste tires on
23 behalf of RESPONDENT and haul them back to the site. Mr. Nyugen further admitted that very
24 few of these loads, if any, were documented by CTLs as required by PRC section
25 42961.5(c)(2). Mr. Nguyen stated he had some CTLs and that he would send them to
26 Inspector Chau. There were no CTL forms completed and submitted to CALRECYCLE for the
27 deliveries described in the table below:
28

Date of Occurrence	Violation	Date of Violation
On or before February 25, 2013 (Count 1)	Failure to complete and submit CTL forms to CalRecycle	On or after May 26, 2013 (90-day time requirement)
On or before February 25, 2013 (Count 2)	Failure to complete and submit CTL forms to CalRecycle	On or after May 26, 2013 (90-day time requirement)
On or before February 25, 2013 (Count 3)	Failure to complete and submit CTL forms to CalRecycle	On or after May 26, 2013 (90-day time requirement)
On or before February 25, 2013 (Count 4)	Failure to complete and submit CTL forms to CalRecycle	On or after May 26, 2013 (90-day time requirement)

FOUR COUNTS OF TRANSPORTING WASTE TIRES TO AN UNAUTHORIZED LOCATION

19. Because RESPONDENT was not in possession of a Waste Tire Facility Permit for the site, RESPONDENT was only authorized to store, stockpile, or accumulate 499 waste tires onsite; since the site had accumulated more than 499 waste tires the site was unauthorized. Moreover, as a hauler, RESPONDENT was prohibited from having waste tires delivered to this unauthorized site. Based on the number of waste tires observed by the Inspectors at the Site on February 25, 2013, CALRECYCLE can estimate that approximately 40 loads of waste tires were brought to the Site by RESPONDENT; however, CALRECYCLE only seeks penalties for 4 counts of transporting waste tires to an unauthorized location (10% of the estimated number of trips to this site) as shown in in the table below:

Date of Occurrence	Violation	Date of Violation
On or before February 25 2013 (Count 1)	Transportation of waste or used tires to an unauthorized location	On or before February 25, 2013
On or before February 25, 2013 (Count 2)	Transportation of waste or used tires to an unauthorized location	On or before February 25, 2013
On or before February 25, 2013 (Count 3)	Transportation of waste or used tires to an unauthorized location	On or before February 25, 2013
On or before February 25, 2013 (Count 4)	Transportation of waste or used tires to an unauthorized location	On or before February 25, 2013

ONE COUNT OF FAILING TO PERMANETLY AFFIX THE TIRE HAULER DECAL TO THE LOWER RIGHT HAND CORNOR OF THE WINDSHIELD

20. While at Senter Tire Service, Inspector ChauF observed the vehicle, with Washington state license plate number B5-226W, used to haul the waste tires to the Site. This vehicle, registered with CALRECYCLE as a tire hauling vehicle for RESPONDENT, did not have the 2013 CALRECYCLE decal affixed to the lower, right-hand corner of the windshield as required by PRC section 42956(a).

ALLEGATIONS OF SPECIFIC VIOLATIONS

21. CALRECYCLE is seeking administrative penalties of \$4,950.00, pursuant to PRC section 42962(c) based on the above-mentioned facts and for the following violations as more specifically set forth in the foregoing paragraphs:

- a. RESPONDENT knowingly violated PRC section 42951(b) by transporting or allowing the transportation of at least four loads of 10 or more waste tires to an unauthorized location, specifically RESPONDENT located at 681 Lenfest Road, San Jose, California.

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1 (c) Any violation of, or noncompliance with any order issued by the Department
2 [CALRECYCLE] or by a hearing officer or a court relating to the generation,
3 transportation or disposal of used or waste tires.

4 (d) Any false statement, misrepresentation, or omission of a significant fact or other
5 required information in the application for a waste tire hauler registration,
6 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
7 Form, or in information regarding these matters subsequently reported to the
8 Department [CALRECYCLE].

9 Furthermore, Title 14 CCR section 18464 allows CALRECYCLE to impose
10 administrative penalties in accordance with the penalty table therein.

11 23. Title 14 CCR section 18464 authorizes penalties for violation of PRC section
12 42951(b), including but not limited to: Failure of tire haulers to transport waste or used tires to
13 a facility that is permitted, excluded, exempted, or otherwise authorized by the department, by
14 statute or regulation, to accept used or waste tires, or to a facility that lawfully accepts used or
15 waste tires for reuse or disposal with penalties ranging from \$1,000-\$3,000 for each first
16 offense.

17 24. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
18 42961.5, including but not limited to: CTL violations, electronic reporting including the failure to
19 submit the CTL to CALRECYCLE, missing information, incomplete information, and false
20 information, with penalties ranging from \$100-\$500 for each first offense.

21 25. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
22 42956, including but not limited to: Failure to carry used or waste tire hauler registration in
23 vehicle; failure to permanently affix tire hauler decal to the lower right hand corner of the
24 windshield, with penalties ranging from \$100-\$500 for each first offense.

25 26. RESPONDENT committed four violations of transporting waste tires to an
26 unauthorized location totaling a \$4,000.00 penalty, four manifesting violations, totaling \$800.00
27 and one violation of failing to permanently affixing the tire hauler decal to the lower right hand
28 corner of the windshield totaling \$150.00.

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1 Pursuant to the above referenced Public Resources Code and Government Code
2 sections, discovery requests by any party must be made within 30 days after the service of this
3 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE
4 PENALTIES.

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6 Dated this 27th day of January, 2015.

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10 HEATHER L. HUNT
11 Attorney for
12 Department of Resources Recycling and
13 Recovery (CALRECYCLE)
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