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7 STATE OF CALIFORNIA
8 DEPARTMENT OF RESOURCES SRECYCLING AND RECOVERY

9
10 In the Matter of:

11 JORGE L. HOLGUIN DBA LETTY'S TIRES

12 TPID NO: 1004521-01

13
14 RESPONDENT.

**STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
DETERMINATION OF DEFAULT OF
STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION**

15 AGENCY NOS. 2009-011090-ADC and
16 2008-000041-DEN

17 OAH NOS. 2009010735 and
18 2009010350

19 In the Matter of:

20 PAOLA'S TIRE; PAOLA ZALDIVAR

21 TPID NO: 1561989-01

22
23 RESPONDENT.

**STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42962**

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26 AGENCY NO. 2009-011105-ADC

27 OAH NO. 2009120778
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2 In the Matter of:
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4 LETICIA ZALDIVAR AKA LETICIA HOLGUIN
5 DBA B & M TIRES;
6 TPID NO: 1562904-01
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RESPONDENT.

**STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42962**

AGENCY NO. 2009-011103-ADC

OAH NO. 2009120785

10 In the Matter of:
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12 LETICIA ZALDIVAR AKA LETICIA HOLGUIN
13 DBA B & M TIRES;
14 TPID NO: 1562904-01
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RESPONDENT.

**STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
THE REVOCATION OF WASTE AND
USED TIRE HAULER
REGISTRATION,
PUBLIC RESOURCES CODE
SECTION 42960**

AGENCY NO. 2009-000006-REV

OAH NO. 2009120786

INTRODUCTION

The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES AND REVOCATION OF WASTE AND USED TIRE HAULER REGISTRATION ("Stipulation") are the California Department of Resources Recycling and Recovery ("CALRECYCLE") and Jorge Holguin dba Letty's Tires, Paola's Tire, Paola Zaldivar, and Leticia Holguin aka Leticia Zaldivar dba B&M Tires. ("RESPONDENTS").

On September 22, 2009, CALRECYCLE served (1) an Administrative Complaint Requesting Determination of Default of Stipulation for Issuance of Administrative Decision against Jorge L. Holguin dba Letty's Tires, (2) an Administrative Complaint for Waste Tire Hauler Administrative Penalties was served

1 on Paola's Tire; Paola Zaldivar, (3) an Accusation for the Revocation of Waste and
2 Used Tire Hauler Registration on Paola's Tires; Paola Zaldivar, (4) an Accusation for
3 the Revocation of Waste and Used Tire Hauler Registration was served on Leticia
4 Zaldivar aka Leticia Holguin dba B&M Tires, and (5) an Administrative Complaint for
5 Waste Tire Hauler Administrative Penalties was served on Leticia Zaldivar aka Leticia
6 Holguin dba B&M Tires.

7 On, June 15, 2010, an Amended Administrative Complaint Requesting
8 Determination of Default of Stipulation for Issuance of Administrative Decision against
9 Jorge L. Holguin dba Letty's Tires was served on Jorge Holguin dba Letty's Tires. On
10 June 15, 2010, an Amended Administrative Complaint for Waste Tire Hauler
11 Administrative Penalties was served on Paola's Tire; Paola Zaldivar. On June 15,
12 2010, an Amended Accusation for the Revocation of Waste and Used Tire Hauler
13 Registration was served on Leticia Zaldivar aka Leticia Holguin dba B&M Tires. On
14 June 15, 2010, an Amended Administrative Complaint for Waste Tire Hauler
15 Administrative Penalties was served on Leticia Zaldivar aka Leticia Holguin dba B&M
16 Tires. On October 26, 2010, CALRECYCLE filed and served an Order to Dismiss
17 Without Prejudice the Accusation for the Revocation of Waste and Used Tire Hauler
18 Registration on Paola's Tire and Paola Zaldivar, only.

19 RESPONDENTS requested a hearing on October 2, 2009, and the Office of
20 Administrative Hearings ("OAH") ordered all matters be consolidated for the purpose of
21 hearing. Hearing was scheduled for June 28, 29 and 30, 2010. OAH granted
22 RESPONDENTS request to continue the hearing to November 16, 17, and 18, 2010.
23 Prior to the hearing, the parties agreed to settle the consolidated cases.

24 In order to avoid the costs and uncertainties of litigation, CALRECYCLE and
25 RESPONDENTS hereby stipulate to the following Factual Findings, Conclusions of
26 Law and Order:

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1 **STIPULATED FACTUAL FINDINGS**

2 1. California Integrated Waste Management Board (CIWMB) is now
3 Department of Resources Recycling and Recovery (CalRecycle). CalRecycle
4 succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC section 40401(a)
5 (1).

6 2. The Administrative Complaint Requesting Determination of Default of
7 Stipulation for Issuance of Administrative Decision against Jorge L. Holguin dba Letty's
8 Tires was executed by Wendy Breckon in her capacity as Senior Staff Counsel for the
9 CIWMB. The Amended Administrative Complaint Request Determination of Default of
10 Stipulation for Issuance of Administrative Decision against Jorge L. Holguin dba Letty's
11 Tires was executed by Heather Hunt in her capacity as Staff Counsel III for
12 CALRECYCLE.

13 3. The Administrative Complaint for Waste Tire Hauler Administrative
14 Penalties against Paola's Tire; Paola Zaldivar and the Amended Administrative
15 Complaint for Waste Tire Hauler Administrative Penalties against Paola's Tire; Paola
16 Zaldivar was executed by Heather Hunt acting in her official capacity as Staff Counsel
17 and Staff Counsel III for the CIWMB and its successor CALRECYCLE.

18 4. The Accusation for the Revocation of Waste and Used Tire Hauler
19 Registration against Paola's Tires; Paola Zaldivar was executed by Wendy Breckon in
20 her official capacity as Senior Staff Counsel for the CIWMB.

21 5. The Accusation for the Revocation of Waste and Used Tire Hauler
22 Registration against Leticia Zaldivar aka Leticia Holguin dba B&M Tires was executed
23 by Wendy Breckon in her official capacity as Senior Staff Counsel for CIWMB. The
24 Amended Accusation for the Revocation of Waste and Used Tire Hauler Registration
25 against Leticia Zaldivar aka Leticia Holguin dba B&M Tires was executed by Heather
26 Hunt in her official capacity as Staff Counsel III for CALRECYCLE.

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1 6. The Administrative Complaint for Waste Tire Hauler Administrative
2 Penalties against Leticia Zaldivar aka Leticia Holguin dba B&M Tires was executed by
3 Wendy Breckon in her official capacity as Senior Staff Counsel for the CIWMB. The
4 Amended Administrative Complaint for Waste Tire Hauler Administrative Penalties
5 against Leticia Zaldivar aka Leticia Holguin dba B&M Tires was executed by Heather
6 Hunt in her official capacity as Senior Staff counsel for CALRECYCLE.

7 7. CALRECYCLE has the authority to regulate and conduct enforcement
8 actions regarding Waste Tire Haulers and Waste Tire Facilities within the State of
9 California under PRC section 42950 et seq. and attendant regulations contained in
10 Title 14 of the California Code of Regulations ("CCR").

11 Stipulated Factual Findings as to the Matters of Jorge Holguin dba Letty's Tires

12 8. RESPONDENT Jorge Holguin dba Letty's Tires ("RESPONDENT LETTY'S
13 TIRES") or its employees or agents was hauling more than 9 waste and/or used tires on
14 the following occasions when its Waste and Used Tire Hauler Registration (Letty's Tires'
15 Registration) was suspended or denied:

- 16 a. On or about February 23, 2009, February 24, 2009, March 12, 2009, and
17 March 24, 2009, a truck registered with the Department of Motor Vehicles to
18 RESPONDENT Jorge Holguin, with license plate number 9D59092, hauled
19 more than nine used or waste tires to the Mitsubishi Cement Corporation on
20 thirteen occasions. This truck was not registered for used and waste tire
21 hauling with CALRECYCLE in accordance with 14 CCR section 18454(f).
22 b. On or about March 18, 2009 and March 19, 2009, a truck with DMV license
23 plate number 9D39532 and registered with DMV to RESPONDENT Jorge
24 Holguin, hauled more than nine used or waste tires to Mitsubishi Cement
25 Corporation on at least three occasions. This truck was not registered for
26 used and waste tire hauling with CALRECYCLE in accordance with 14 CCR
27 section 18454(f).

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1 c. On or about March 24, 2009, a truck with DMV license no. 9D39532, and
2 registered with DMV to RESPONDENT Jorge Holguin, was hauling more than
3 nine used or waste tires. The CHP issued a citation for Vehicle Code section
4 31560, improper waste tire registration, to Jose Muro because this truck was
5 not registered for used and waste tire hauling with CALRECYCLE in
6 accordance with PRC section 42951.

7 9. On or about March 12, 2009, CALRECYCLE executed an Administrative
8 Decision for Denial of the Waste and Used Tire Hauler Registration for RESPONDENT
9 LETTY'S TIRES (TPID # 1004521), denying RESPONDENT LETTY'S TIRES the use of
10 the Waste and Used Tire Hauler Registration for a period of nine (9) months from
11 January 1, 2009 to September 30, 2009. The corresponding Stipulated Agreement
12 required that RESPONDENT LETTY'S TIRES not allow any of its vehicles to be used by
13 another person or business to haul waste or used tires during the denial period.

14 10. Paragraph 14 of the Stipulation For Issuance of Administrative Decision for
15 the Denial of Waste and Used Tire Hauler Registration ("Prior Stipulation"), which
16 RESPONDENT Jorge Holguin signed on February 26, 2009, states specifically that
17 RESPONDENT LETTY'S TIRES would be in default of the Prior Stipulation if
18 RESPONDENT LETTY'S TIRES transported used or waste tires during the period of
19 Letty's Registration's suspension. Furthermore, 14 CCR section 18457(d) provides that
20 the waste tire hauler shall not transport used or waste tires, nor own, operate, or be an
21 officer of a waste tire hauling business entity or corporation during the period of
22 suspension or revocation.

23 11. RESPONDENT LETTY'S TIRES acted in bad faith by circumventing
24 CALRECYCLE laws so that it could continue in the hauling business even though he had
25 stipulated to a suspension of his used and waste tire hauling registration for nine months.
26 Specifically, prior to the settlement conference concerning the Statement of Issues
27 denying the used and waste tire hauler registration, a hauler registration was applied for
28 under the name of RESPONDENT PAOLA ZALDIVAR; PAOLA'S TIRE on

1 December 31, 2008. RESPONDENT PAOLA'S TIRE is a continuation of and one and
2 the same as RESPONDENT LETTY'S TIRES as can be shown by the following:

- 3 • A customer of RESPONDENT PAOLA'S TIRE called RESPONDENT LETTY'S
4 TIRE'S phone number to ask for pick-ups of their tires.
- 5 • A number of PAOLA'S TIRE'S invoices state to send payment to RESPONDENT
6 LETTY'S TIRES address.
- 7 • A number of invoices showed "LETTY'S TIRES/PAOLA'S TIRES".
- 8 • RESPONDENT PAOLA'S TIRES used vehicles registered to RESPONDENT
9 JORGE HOLGUIN for hauling used and waste tires.

10 12. RESPONDENT LETICIA ZALDIVAR AKA HOLGUIN signed as a "Personal
11 Indemnitor" on the waste tire hauler indemnity agreement between American Contractors
12 Indemnity Company and RESPONDENT "JORGE L. HOLGUIN." The American
13 Contractors Indemnity Company Agreement contained the following instruction: "If sole
14 owner, applicant must sign on behalf of firm. Spouse must sign personal indemnity
15 below." RESPONDENT JORGE HOLGUIN disclosed that he was a sole proprietor on
16 the Indemnity Agreement application.

17 13. On or about November 13, 2008, during an inspection at Skyview Terrace
18 Storage, RESPONDENT JORGE HOLGUIN informed Stephen Dolan, Integrated Waste
19 Management Specialist for CALRECYCLE's Tire Enforcement Section, that his wife,
20 RESPONDENT LETICIA ZALDIVAR AKA LETICIA HOLGUIN managed the paperwork.

21 14. RESPONDENT PAOLA'S TIRE requested that payment for tire hauling
22 services be sent to RESPONDENT LETTY'S TIRES address. On or about January 28,
23 2009, Stephen Dolan, Integrated Waste Management Specialist for CALRECYCLE Tire
24 Enforcement Section, obtained Invoice Number 439427 during a routine inspection at
25 San Fernando Brake and Tire. The return address at the top of the invoice listed 504
26 North Hagar Avenue, San Fernando, California, however, the invoice requested payment
27 be sent to 10463 Telfair Avenue, Pacoima, California, 91331, the address listed by
28 RESPONDENT LETTY'S TIRES in its Waste and Used Tire Hauler Application.

1 15. During the inspection on or about March 23, 2009, at 504 North Hagar, San
2 Fernando, California, as documented in Waste Tire Survey and Inspection Report
3 Survey Form I3-1059665, Mr. Dolan obtained an invoice on RESPONDENT PAOLA'S
4 TIRE's letterhead, but the check attached had been made payable to RESPONDENT
5 LETTY'S TIRES. Mr. Dolan also obtained another of RESPONDENT PAOLA'S TIRE's
6 invoices; the text of which directed payment to the home address of RESPONDENT
7 JORGE HOLGUIN. Moreover, at the same time, Mr. Dolan observed multiple invoices on
8 RESPONDENT PAOLA'S TIRE's letterhead that directed payment to Post Office Box
9 330958 in Pacoima. Postmaster General documents indicate that same Post Office Box
10 was obtained by RESPONDENT LETICIA ZALDIVAR AKA HOLGUIN, wife of
11 RESPONDENT JORGE HOLGUIN, with a physical address of 10463 Telfair Avenue,
12 Pacoima California, the same address provided in RESPONDENT LETTY'S TIRES
13 Waste and Used Tire Hauler Application. When asked follow-up questions,
14 RESPONDENT PAOLA ZALDIVAR was unable to answer questions regarding the lock
15 mechanism on the same Post Office box, or where it was located.

16 16. RESPONDENT PAOLA'S TIRE and RESPONDENT LETTY'S TIRES also
17 used the same phone number when dealing with clients. On or about February 2, 2009,
18 Mr. Tracy inspected American Tire Depot. During that inspection, Mr. Tracy obtained
19 Comprehensive Trip Log (CTL) receipt numbered 3912749 which had been completed
20 by RESPONDENT PAOLA'S TIRE. Mr. Tracy compared the telephone number on CTL
21 receipt numbered 3912749, to a separate CTL receipt numbered 3579982, which had
22 been completed by RESPONDENT LETTY'S TIRES. Both CTL receipts showed the
23 same phone number in the box reserved for "Hauler Telephone Number," which is the
24 same phone number listed in RESPONDENT LETTY'S TIRES Waste and Used Tire
25 Hauler Application, (818-890-3186).

26 17. On or about February 2, 2009, Mr. Tracy inspected BAS Recycling, Inc.,
27 located at 1400 North H Street, San Bernardino, CA. During that inspection Mr. Tracy
28 obtained invoices, receipts and CTL receipt's demonstrating RESPONDENT PAOLA'S

1 TIRE and RESPONDENT LETTY'S TIRE to be the same hauler for a single transaction.
2 Three such invoices, Receiving Report Numbers 28306, 28314, and 28324 listed
3 RESPONDENT LETTY'S TIRES in the reference section, but corresponding CTL
4 receipts numbered 3912690, 3912671, and 3912747 listed RESPONDENT PAOLA'S
5 TIRE phone number, 818-219-5366. Another such invoice, Receiving Report Number
6 28307 listed RESPONDENT LETTY'S TIRES in the reference section, but the CTL
7 receipt listed RESPONDENT PAOLA'S TIRE as the hauler, and listed RESPONDENT
8 LETTY'S TIRES telephone number 818-890-3186.

9 18. RESPONDENT PAOLA ZALDIVAR stated that she knew very little about
10 her business. On or about March 23, 2009, Mr. Dolan inspected RESPONDENT
11 PAOLA'S TIRE's facility to further investigate the above-described allegations. During
12 that inspection, as documented in Waste Tire Survey and Inspection Report Form I3-
13 1059665. Mr. Dolan spoke with RESPONDENT PAOLA ZALDIVAR. RESPONDENT
14 PAOLA ZALDIVAR was unable to provide neither her business e-mail address, nor her
15 log-in information. RESPONDENT PAOLA ZALDIVAR was also unable to answer Mr.
16 Dolan's questions regarding her Surety Bond with CALRECYCLE, specifically, the cost
17 of the Surety Bond and how it was paid for. RESPONDENT PAOLA ZALDIVAR further
18 stated that she would contact the driver to pick up tires only after she was contacted by
19 customers, however, she later stated that she did not know how to get a hold of the
20 driver and did not have his phone number.

21 19. RESPONDENT PAOLA'S TIRE and RESPONDENT LETTY'S TIRES
22 information appeared on documents regarding the same hauled loads. On or about
23 March 25, 2009, Mr. Tracy inspected Mistubishi Cement Plant in Lucerne Valley,
24 California. During the inspection Mr. Tracy observed CTL receipts and corresponding
25 Bills of Lading that referenced both RESPONDENT LETTY'S TIRES and RESPONDENT
26 PAOLA'S TIRE on the same document.

27 20. RESPONDENT LETTY'S TIRES misrepresented information to
28 CALRECYCLE to conceal the fact that it continued to haul. The vehicle license plate

1 numbers and names of drivers listed on four (4) CTL receipts did not correspond to those
2 listed on the Bills of Lading found at Mitsubishi Cement Plant. In all four (4) instances,
3 the Bills of Lading, numbers 68542, 68533, 68506, and 68507, showed that
4 RESPONDENT PAOLA'S TIRE used a truck with license plate 9D59092 CA; a truck
5 registered to RESPONDENT LETICIA ZALDIVAR AKA LETICIA HOLGUIN by the DMV
6 and to RESPONDENT LETTY'S TIRES by CALRECYCLE, however the four (4)
7 corresponding CTL receipts submitted to the CALRECYCLE, numbered 3912871-A,
8 3912718-B, 3912884-A, and 3912763-B listed a truck 8J27289 CA. A truck with license
9 plate number 9D95092, was also listed on eleven (11) Bills of Lading, including the four
10 above, numbered 68542, 68533, 68516, 68506, 68507, 69309, 69312, 68992, 68989,
11 68983, and 68975, whose corresponding CTL Receipts, numbered 3912871-A,
12 3912718-B, 3912886-A, 3912884-A, 3912763-B, 3912892-A, 3912891-A, 3299752-A,
13 3912830-C, 3912831-C, and 391233-D, listed RESPONDENT PAOLA'S TIRE as the
14 hauler. Additionally, three (3) Bills of Lading, numbered 69203, 69200, and 69195 listed
15 as hauler a vehicle with license plate number 9D39532, a vehicle registered with the
16 DMV to RESPONDENT JORGE HOLGUIN, but never registered with the
17 CALRECYCLE; the corresponding CTL receipts, numbered, 3912646-B, 3912847-C,
18 and 3912848-C showed these loads as hauled by RESPONDENT PAOLA'S TIRE.

19 21. As discussed in the paragraphs above, RESPONDENT LETT'S TIRES is
20 one and the same as RESPONDENT PAOLA'S TIRE, and RESPONDENT PAOLA'S
21 TIRE is simply a continuation of RESPONDENT LETTY'S TIRES. RESPONDENT
22 LETTY'S TIRES used RESPONDENT PAOLA'S TIRE's 2009 Registration to collect
23 waste or used tires from its customers, and then to illegally haul the tires to an
24 unpermitted waste tire facility thereby creating or contributing in the creation of an
25 unpermitted minor waste tire facility ("WTF") in violation of PRC section 42834. On or
26 about August 12, 2009, RESPONDENT LETTY'S TIRES stored waste or used tires in
27 various vehicles, including license plate number 8F35947, at 11051 Pendleton Street, in
28 Sun Valley, California.

1 Stipulated Factual Findings at the Matter of Paola 's Tire; Paola Zaldivar

2 22. RESPONDENT PAOLA'S TIRE applied for and obtained from
3 CALRECYCLE a 2009 Waste and Used Tire Hauler Registration, pursuant to PRC
4 sections 42955 and 42956, and implementing regulations. The registration was applied
5 for by RESPONDENT PAOLA ZALDIVAR, with an address of 504 North Hagar Avenue,
6 San Fernando, California.

7 23. RESPONDENT JORGE HOLGUIN was owner and operator of
8 RESPONDENT LETTY'S TIRES, whose Waste and Used Tire Hauler Registration was
9 revoked by the CALRECYCLE for multiple violations of California law.

10 24. On or about January 6, 2009, CALRECYCLE received a Waste Tire Hauler
11 Application and Surety Bond from RESPONDENT PAOLA'S TIRE. In the application,
12 RESPONDENT PAOLA'S TIRE applied for decals for five (5) vehicles, misrepresenting
13 at least four (4) of these vehicles as being registered with the California Department of
14 Motor Vehicles ("DMV") to RESPONDENT PAOLA'S TIRE, in violation of PRC section
15 42962. In fact, at least four (4) vehicles, license plate numbered 3H71033, TONLY10,
16 10427EX, and 2PHB359, were not registered with the DMV to RESPONDENT PAOLA'S
17 TIRE at the time.

18 25. On or about February 26, 2009, RESPONDENT PAOLA'S TIRE submitted
19 an amended application dated February 22, 2009, requesting that the four (4) trucks
20 previously referenced, be removed from its original application.

21 26. On or about February 2, 2009, Vance Tracy, Integrated Waste
22 Management Specialist for CALRECYCLE's Enforcement Section, conducted an
23 inspection of BAS Recycling, Inc., located at 1400 North H Street, San Bernardino, CA.
24 During that inspection Mr. Tracy obtained copies of three (3) CTL receipts numbered
25 3912671A, 3912690A, and 3912689A, that RESPONDENT PAOLA'S TIRE failed to
26 submit to the CALRECYCLE as required by PRC section 42961.5.

27 27. On or about March 12, 2009, Mr. Tracy, performed another inspection of
28 BAS Recycling. During this inspection, Mr. Tracy obtained copies of five (5) CTL

1 receipts numbered 3912754A, 3912756A, 3912879A, 3912878A, and 3912856A. Mr.
2 Tracy determined that RESPONDENT PAOLA'S TIRE had failed to submit these to
3 CALRECYCLE as required by PRC section 42961.5.

4 28. On or about March 25, 2009, while inspecting the Mistubishi Cement Plant,
5 Mr. Tracy obtained copies of six (6) CTL receipts numbered 3912886A, 3912886A,
6 3912815A, 3912816C, 3912874A, and 3912645A, which had not been submitted to the
7 CALRECYCLE within the time required by PRC section 42961.5.

8 29. On or about March 25, 2009, Mr. Tracy also obtained Bills of Lading that
9 showed RESPONDENT PAOLA'S TIRE used a vehicle with license plate number
10 9D39532 CA to haul tires on three (3) separate occasions. Said vehicle was registered
11 through the DMV to RESPONDENT JORGE HOLGUIN, and was never registered for
12 hauling with the CALRECYCLE, in violation of 14 CCR section 18831 form 60 and 14
13 CCR section 18456.2. RESPONDENT PAOLA'S TIRE failed to update its Waste Tire
14 Hauler registration to include this vehicle in violation of 14 CCR section 18456.3.

15 30. On or about May 8, 2009, Joe Espericueta, Kern County Environment
16 Health Services Department, inspected a site in Kern County and observed a truck with
17 license plate number 8J27823 CA, that did not have its tire hauler decal in the lower right
18 hand corner of its windshield and contained only a photocopy of the tire hauler
19 registration instead of the original, in violation of PRC section 42956.

20 31. On or about August 12, 2009, Stephen Dolan and Vance Tracy Integrated
21 Waste Management Specialists for CALRECYCLE counted over 800 tires at an
22 unpermitted facility located at 11051 Pendleton Street, Sun Valley, California. "Paola
23 Tires" was listed on the lease for the property, and the "use of the premises" was listed
24 as "storage of used tires . . . and Truck parking." RESPONDENT PAOLA'S TIRE allowed
25 the transport of waste or used tired to the unpermitted minor WTF in violation of PRC
26 section 42834 and 42951(b).

27 32. On or about December 4, 2009, Mr. Dolan counted over 1,000 tires at an
28 unpermitted facility located at 11051 Pendleton Street, Sun Valley, California. "Paola

1 Tires” was listed on the lease for the property, and the “use of the premises” was listed
2 as “storage of used tires . . . and Truck parking,” but the facility remained unpermitted by
3 CALRECYCLE. RESPONDENT PAOLA’S TIRE allowed the transport of waste or used
4 tires to the unpermitted minor WTF in violation of PRC section 42834 and 42951(b).

5 33. On at least one occasion prior to August 12, 2009, RESPONDENT
6 PAOLA’S TIRE failed to submit manifests to CALRECYCLE documenting the transport
7 of waste or used tires into or out of the 11051 Pendleton Street location, in violation of
8 PRC section 42961.5.

9 34. On at least one occasion from August 12, 2009 through December 4, 2009,
10 RESPONDENT PAOLA’S TIRE failed to submit manifests to CALRECYCLE
11 documenting the transport of waste or used tires into or out of the 11051 Pendleton
12 Street location, in violation of PRC section 42961.5.

13 35. On or about March 12, 2009, CALRECYCLE executed an Administrative
14 Decision for Denial of the Waste and Used Tire Hauler Registration for RESPONDENT
15 LETTY’S TIRES (TPID # 1004521), denying RESPONDENT LETTY’S TIRES the use of
16 the Waste and Used Tire Hauler Registration for a period of nine (9) months from
17 January 1, 2009 to September 30, 2009. The corresponding Prior Stipulation required
18 that RESPONDENT LETTY’S TIRES not allow any of its vehicles to be used by another
19 person or business to haul waste or used tires during the denial period. RESPONDENT
20 PAOLA’S TIRES aided and abetted RESPONDENT LETTY’S TIRES in its failure to
21 comply with California Waste Tire Hauler Laws and the Administrative Decision.

22 36. RESPONDENT PAOLA’S TIRES requested that payment for tire hauling
23 services be sent to RESPONDENT LETTY’S TIRES address. On or about January 28,
24 2009, Stephen Dolan, Integrated Waste Management Specialist for CALRECYCLE Tire
25 Enforcement Section, obtained Invoice Number 439427 during a routine inspection at
26 San Fernando Brake and Tire. The return address at the top of the invoice listed 504
27 North Hagar Avenue, San Fernando, California, however, the invoice requested
28 payment be sent to 10463 Telfair Avenue, Pacoima, California, 91331, the address listed

1 by RESPONDENT LETTY'S TIRES in its Waste and Used Tire Hauler Application.

2 37. Also, during the inspection on or about March 23, 2009, at 504 North
3 Hagar, San Fernando, California, as documented in Waste Tire Survey and Inspection
4 Report Survey Form I3-1059665, Mr. Dolan obtained an invoice on RESPONDENT
5 PAOLA'S TIRE's letterhead, but the check attached had been made payable to
6 RESPONDENT LETTY'S TIRES. Mr. Dolan also obtained another of RESPONDENT
7 PAOLA'S TIRE's invoices; the text of which directed payment to the home address of
8 RESPONDENT JORGE HOLGUIN. Moreover, at the same time, Mr. Dolan observed
9 multiple invoices on RESPONDENT PAOLA'S TIRE's letterhead that directed payment
10 to Post Office Box 330958 in Pacoima. Postmaster General documents indicate that
11 same Post Office Box was obtained by RESPONDENT LETICIA ZALDIVAR AKA
12 LETICIA HOLGUIN, wife of RESPONDENT JORGE HOLGUIN, with a physical address
13 of 10463 Telfair Avenue, Pacoima California, the same address provided in
14 RESPONDENT LETTY'S TIRES' Waste and Used Tire Hauler Application. When asked
15 follow-up questions, RESPONDENT PAOLA ZALDIVAR was unable to answer questions
16 regarding the lock mechanism on the same Post Office box, or where it was located.

17 38. RESPONDENT PAOLA'S TIRE and RESPONDENT LETTY'S TIRES also
18 used the same phone number when dealing with clients. On or about February 2, 2009,
19 Mr. Tracy inspected American Tire Depot. During that inspection, Mr. Tracy obtained
20 CTL receipt numbered 3912749 which had been completed by RESPONDENT PAOLA'S
21 TIRES. Mr. Tracy compared the telephone number on CTL receipt numbered 3912749,
22 to a separate CTL receipt numbered 3579982, which had been completed by
23 RESPONDENT LETTY'S TIRES. Both CTL receipts showed the same phone number in
24 the box reserved for "Hauler Telephone Number," the same phone number listed in
25 RESPONDENT LETTY'S TIRES' Waste and Used Tire Hauler Application, 818-890-
26 3186,

27 39. On or about February 2, 2009, Mr. Tracy inspected BAS Recycling, Inc.,
28 located at 1400 North H Street, San Bernardino, CA. During that inspection Mr. Tracy

1 obtained invoices, receipts and CTL receipt's demonstrating RESPONDENT PAOLA'S
2 TIRE and RESPONDENT LETTY'S TIRES to be the same hauler for a single
3 transaction. Three such invoices, Receiving Report Numbers 28306, 28314, and 28324
4 listed RESPONDENT LETTY'S TIRES in the reference section, but corresponding CTL
5 receipts numbered 3912690, 3912671, and 3912747 listed RESPONDENT PAOLA'S
6 TIRE's phone number, 818-219-5366. Another such invoice, Receiving Report Number
7 28307 listed RESPONDENT LETTY'S TIRES in the reference section, but the CTL
8 receipt listed RESPONDENT PAOLA'S TIRE as the hauler, and listed RESPONDENT
9 LETTY'S TIRES telephone number 818-890-3186.

10 40. RESPONDENT PAOLA ZALDIVAR stated that she knew very little about
11 her business. On or about March 23, 2009, Mr. Dolan inspected RESPONDENT
12 PAOLA'S TIRE's facility to further investigate the above-described allegations. During
13 that inspection, as documented in Waste Tire Survey and Inspection Report Form I3-
14 1059665. RESPONDENT PAOLA ZALDIVAR was unable to provide neither her
15 business e-mail address, nor her log-in information. RESPONDENT PAOLA ZALDIVAR
16 was also unable to answer Mr. Dolan's questions regarding her Surety Bond with
17 CALRECYCLE, specifically, the cost of the Surety Bond and how it was paid for.
18 RESPONDENT PAOLA ZALDIVAR was unable to describe the five (5) trucks that she
19 requested be removed from her registration, and was also unable to locate the decals
20 that had been issued by CALRECYCLE for those trucks. RESPONDENT PAOLA
21 ZALDIVAR stated that the trucks were parked outside her house, or the house owned by
22 her driver, Julio, when not in use. RESPONDENT PAOLA ZALDIVAR further stated that
23 she would contact the driver to pick up tires only after she was contacted by customers,
24 however, she later stated that she did not know how to get a hold of the driver and did
25 not have his phone number.

26 41. RESPONDENT PAOLA'S TIRE and RESPONDENT LETTY'S TIRES'
27 information appeared on documents regarding the same hauled loads. On or about
28 March 25, 2009, Mr. Tracy inspected Mistubishi Cement Plant in Lucerne Valley,

1 California. During the inspection Mr. Tracy observed CTL receipts and corresponding
2 Bills of Lading that referenced both RESPONDENT LETTY'S TIRES and RESPONDENT
3 PAOLA'S TIRE on the same document. Mr. Tracy also observed that the vehicle license
4 plate numbers and names of drivers listed on four (4) CTL receipts did not correspond to
5 those listed on the Bills of Lading. In all four (4) instances, the Bills of Lading, numbers
6 68542, 68533, 68506, and 68507, showed that RESPONDENT PAOLA'S TIRE used a
7 truck with license plate 9D59092 CA; a truck registered to RESPONDENT LETICIA
8 ZALDIVAR AKA LETICIA HOLGUIN by the DMV and to RESPONDENT LETTY'S TIRES
9 by CALRECYCLE, however the four (4) corresponding CTL receipts turned into
10 CALRECYCLE, numbered 3912871-A, 3912718-B, 3912884-A, and 3912763-B listed a
11 truck 8J27289 CA, in violation of PRC sections 42961.5 and 42962. The truck with
12 license plate number 9D95092, was also listed on eleven (11) Bills of Lading, including
13 the four above, numbered 68542, 68533, 68516, 68506, 68507, 69309, 69312, 68992,
14 68989, 68983, and 68975, whose corresponding CTL Receipts, numbered 3912871-A,
15 3912718-B, 3912886-A, 3912884-A, 3912763-B, 3912892-A, 3912891-A, 3299752-A,
16 3912830-C, 3912831-C, and 391233-D, listed RESPONDENT PT as the hauler, in
17 violation of PRC section 42961.5. Additionally, three (3) Bills of Lading, numbered
18 69203, 69200, and 69195 listed as hauler a vehicle with license plate number 9D39532,
19 a vehicle registered with the DMV to RESPONDENT JORGE HOLGUIN, but never
20 registered with CALRECYCLE; the corresponding CTL receipts, numbered, 3912646-B,
21 3912847-C, and 3912848-C showed these loads as hauled by RESPONDENT PAOLA'S
22 TIRE, in violation of PRC section 42961.5. RESPONDENT PAOLA'S TIRE failed to
23 update its Waste Tire Hauler Registration to include these vehicles in violation of 14
24 CCR section 18456.3.

25 42. On or about March 25, 2009, Julio Muro, a driver for RESPONDENT
26 PAOLA'S TIRE, hauled used or waste tires in a vehicle that was not registered with
27 CALRECYCLE for the purpose of hauling waste or used tires, and was registered with
28 DMV to RESPONDENT JORGE HOLGUIN with California License Plate Number

1 9D39532. The vehicle displayed not decal and Mr. Muro was unable to provide law
2 enforcement with a valid waste and used tire hauler registration in violation of PRC
3 section 42956 and 42961.5.

4 Stipulated Factual Findings in the Matters of Leticia Zaldivar aka Leticia Holguin dba

5 B&M Tires

6 43. RESPONDENT LETICIA ZALDIVAR AKA LETICIA HOGUIN DBA B&M
7 TIRES ("B&M TIRES") applied for and obtained from CALRECYCLE a 2009 Waste and
8 Used Tire Hauler Registration, which is effective from January 22, 2009 through
9 December 31, 2009, in accordance with PRC sections 42955 and 42956, and
10 implementing regulations (2009 Registration).

11 44. RESPONDENT B&M TIRES misrepresented information on the
12 CALRECYCLE waste tire hauler application as follows:

- 13 a. RESPONDENT B&M TIRES stated that four vehicles were registered with
14 Department of Motor Vehicles to RESPONDENT B&M TIRES, when in fact the
15 Department of Motor Vehicles records indicated that none of the vehicles were
16 registered to RESPONDENT B&M TIRES. This misrepresentation was an
17 intentional or negligent violation of a permit, rule, regulation, standard, or
18 requirement and is therefore subject to penalties pursuant to PRC section
19 42962.
- 20 b. RESPONDENT LETICIA ZALDIVAR AKA LETICIA HOLGUIN represented to
21 CALRECYCLE on the waste and used tire registration application that her
22 name was Leticia Zaldivar when in fact her name is Leticia Zaldivar de
23 Holguin. This misrepresentation was an intentional or negligent violation of a
24 permit, rule, regulation, standard, or requirement and is therefore subject to
25 penalties pursuant to PRC section 42962.

26 45. RESPONDENT B&M TIRES used its 2009 Registration to collect waste or
27 used tires from its customers, and then to illegally haul the tires to an unpermitted waste
28 tire facility thereby creating or contributing in the creation of an unpermitted waste tire

1 facility at 11051 Pendleton Street, Sun Valley, California. RESPONDENT LETICIA
2 ZALDIVAR AKA LETICIA HOLGUIN allowed trucks to transport waste or used tires onto
3 the unpermitted facility in violation of PRC section 42951(b). On July 1, 2009,
4 RESPONDENT LETICIA ZALDIVAR AKA LETICIA HOGUIN signed a lease for the
5 storage of used tires and initialed the pages "LH". The lease provides that its purpose is
6 the storage of used tires not to exceed 500 and truck parking.

7 a. On or about August 12, 2009, RESPONDENT LETICIA ZALDIVAR AKA
8 LETICIA HOLGUIN stored over 500 waste or used tires in various vehicles,
9 including license plate number 8F35947, at 11051 Pendleton Street, in Sun
10 Valley, California, creating an unpermitted minor WTF in violation of PRC section
11 42834.

12 b. On or about December 4, 2009, RESPONDENT LETICIA ZALDIVAR AKA
13 HOLGUIN stored over 1,000 waste or used tires in various vehicles at 11051
14 Pendleton Street, Sun Valley, California, creating an unpermitted minor WTF in
15 violation of PRC section 42834.

16 46. On at least one occasion prior to August 12, 2009, RESPONDENT
17 LETICIA ZALDIVAR AKA LETICIA HOLGUIN failed to submit CTL receipts to
18 CALRECYCLE manifesting the used and waste tires hauled to 11051 Pendleton Street,
19 Sun Valley, California, in violation of PRC section 42961.5.

20 47. On at least one occasion from August 12, 2009 through December 4, 2009,
21 RESPONDENT B&M TIRES failed to submit CTLs to CALRECYCLE manifesting the
22 used and waste tires hauled to 11051 Pendleton Street, in Sun Valley, California, in
23 violation of PRC section 42961.5.

24 48. On or about June 12, 2009 to June 20, 2009, RESPONDENT B&M TIRES
25 hauled 14 loads of waste and/or used tires to Mitsubishi Cement Plant, located at 5808
26 State Highway 18, Lucerne Valley, California 92313, using a vehicle with California
27 license plate no. 9EO2438, that was not registered with CALRECYCLE. This is a
28 violation of 14 CCR section 18831, CALRECYCLE form 60, for failure to provide this

1 vehicle information on the waste and used tire hauler application, a violation of 14 CCR
2 section 18454(f), in that the registration card and/or decal issued to a specific vehicle
3 shall not be used for any vehicle not listed by the registered hauler, and a violation of 14
4 CCR section 18456 for failure to notify the Board of a necessary change in the waste
5 and used tire hauler application.

6 49. In violation of PRC section 42961.5, RESPONDENT B&M TIRES failed to
7 submit CTLs to CALRECYCLE indicating that RESPONDENT B&M TIRES hauled 14
8 loads of waste and/or used tires from June 12, 2009 to June 20, 2009, to Mitsubishi
9 Cement Plant, located at 5808 State Highway 18, Lucerne Valley, California 92313,
10 using a vehicle with California license plate no. 9EO2438, that was not registered with
11 CALRECYCLE, in violation of PRC section 42961.5.

12 50. On or about May 20, 2010, Ziba Atai, Tire Enforcement Agent for Los
13 Angeles County observed a truck with license plate number, 8W05036, unloading trucks
14 at 23870 Pine Street, Newhall, California, and counted approximately 600 waste or used
15 tires on site. The truck was registered with CALRECYCLE to RESPONDENT B&M
16 TIRES. In phone call during the ensuing inspection, RESPONDENT LETICIA
17 ZALDIVAR AKA LETICIA HOLGUING indicated managerial status over the property by
18 admitting "they" had only recently moved onto the property; thus RESPONDENT B&M
19 TIRES created an unpermitted minor WTF by allowing the transport of waste or used
20 tires onto the property in violation of PRC section 42834 and PRC section 42951(b).

21 51. RESPONDENT B&M TIRES failed to submit CTLs to CALRECYCLE
22 manifesting the used and waste tires hauled to 23870 Pine Street, Newhall, California, in
23 violation of PRC section 42961.5.

24 **DISPUTED FACTUAL FINDINGS**

25 52. CALRECYCLE contends that RESPONDENT JORGE HOLGUIN'S wife,
26 RESPONDENT LETICIA ZALIDVAR aka LETICIA HOLGUIN, applied to
27 CALRECYCLE for a waste tire hauler registration under the name of RESPONDENT
28 PAOLA ZALDIVAR; PAOLA'S TIRE on December 31, 2008. RESPONDENTS contend

1 that RESPONDENT PAOLA ZALDIVAR applied for said waste tire hauler registration.

2 53. CALRECYCLE contends that RESPONDENT LETICIA ZALDIVAR AKA
3 LETICIA HOLGUIN was part or full owner of RESPONDENT LETTY'S TIRES;
4 RESPONDENTS contend that RESPONDENT LETICIA ZALDIVAR AKA LETICIA
5 HOLGUIN was not part or full owner of RESPONDENT LETTY'S TIRES.

6 54. CALRECYCLE contends that RESPONDENT JORGE HOLGUIN told
7 Stephen Dolan that RESPONDENT LETICIA ZALDIVAR aka LETICIA HOLGUIN owned
8 LETTY'S TIRES or that "it was her business". RESPONDENT contends that
9 RESPONDENT JORGE HOLGUIN did not tell Stephen Dolan that RESPONDENT
10 LETICIA ZALDIVAR AKA LETICIA HOLGUIN owned LETTY'S TIRES or that "it was her
11 business."

12 **STIPULATED CONCLUSIONS OF LAW**

13 55. CALRECYCLE has authority to assess administrative penalties against
14 RESPONDENTS as set forth in PRC section 42850 and 14 CCR section 18429.
15 CALRECYCLE has authority to RESPONDENTS' Registrations as set forth in PRC
16 section 42960.

17 Stipulated Conclusions of Law in the Matters of Jorge Holguin dba Letty's Tires

18 56. CALRECYCLE is authorized to pursue penalties against RESPONDENT
19 LETTY'S TIRES in an amount up to \$10,000 pursuant to the terms of the Prior
20 Stipulation.

21 57. RESPONDENT LETTY'S TIRES violated the terms of the Prior
22 Stipulation by allowing RESPONDENT PAOLA'S TIRE and RESPONDENT B&M
23 TIRES to operate as a continuation of RESPONDENT LETTY'S TIRES when
24 RESPONDENT LETTY'S TIRES was to be suspended, and for allowing
25 RESPONDENT PAOLA'S TIRE and RESPONDENT B&M TIRES to haul waste or
26 used tires in trucks DMV registered to RESPONDENT HORGE HOLGUIN.

27 Stipulated Conclusions of Law in the Matter of Paola's Tire; Paola Zaldivar
28

1 58. On at least nineteen (19) occasions, RESPONDENT PAOLA'S TIRE
2 intentionally or negligently violated a permit, rule, regulation, standard or requirement
3 issued or adopted by CALRECYCLE by misrepresenting significant facts in its Waste
4 TireHauler application or CTLs, pursuant to PRC section 42962.

5 59. On at least sixteen (16) separate occasions, RESPONDENT PAOLA'S
6 TIRE violated PRC section 42961.5 by failing to submit CTLs (manifests) to
7 CALRECYCLE either at all or within the prescribed time period.

8 60. On at least two (2) separate occasions RESPONDENT PAOLA'S TIRE
9 failed to update its Waste Tire Hauler application resulting in the transport of tires in
10 unregistered vehicles, in violation of 14 CCR section 18456.3.

11 61. On multiple occasions RESPONDENT PAOLA'S TIRE violated 14 CCR
12 section 18831, form 60, by failing to haul used and waste tires in a CALRECYCLE
13 registered vehicle, and 14 CCR section 18456.2 by allowing tires to be hauled in
14 vehicles without proper decals obtained from CALRECYCLE.

15 62. On at least two (2) occasions RESPONDENT PAOLA'S TIRE violated
16 PRC sections 42951(b) and 42834 by transporting waste tires to a minor WTF or by
17 accepting waste tires at a minor WTF when the operator had failed to obtain a minor
18 WTF permit.

19 63. On multiple occasions RESPONDENT PAOLA'S TIRE continued to
20 operate its business in a manner indicating that it acted unlawfully by aiding and
21 abetting RESPONDENT LETTY'S TIRES in its failure to comply with the afore-
22 mentioned Administrative Decision and California Tire Hauler Registration Laws, in
23 violation of PRC section 42962.

24 64. On at least one (1) occasion RESPONDENT PAOLA'S TIRE violated
25 PRC section 42956, by failing to carry the waste or used tire hauler registration in the
26 registered vehicle; and failing to permanently affix the CALRECYCLE Tire Hauler decal
27 to the lower right hand corner of the windshield.

28 ///

1 65. On at least one (1) occasion RESPONDENT PAOLA'S TIRE violated
2 PRC section 42956 by failing to provide a valid Waste Tire Hauler Registration upon
3 demand to an authorized representative of CALRECYCLE.

4 Stipulated Conclusions of Law in the Matters of Leticia Zaldivar aka Leticia Holguin dba

5 B&M Tires

6 66. RESPONDENT B&M TIRES violated PRC sections 42951(b) and 42834 by
7 transporting waste tires to a minor WTF or by accepting waste tires at a minor WTF
8 when the operator had failed to obtain a minor WTF permit.

9 67. RESPONDENT B&M TIRES created or operated or contributed to the
10 creation and operation of an unpermitted waste tire facility in violation 14 CCR section
11 18420(a).

12 68. RESPONDENT B&M TIRES failed to manifest used and waste tires in
13 violation of PRC section 42961.5.

14 69. RESPONDENT B&M TIRES failed to notify CALRECYCLE of necessary
15 changes in the waste and used tire hauler application in violation of 14 CCR 18456.3.

16
17 **DISPUTED CONCLUSIONS OF LAW**

18 70. CALRECYCLE contends that RESPONDENT B&M TIRES intentionally or
19 negligently misrepresented information provided in its application for a waste and used
20 tire hauler registration pursuant to PRC section 42962; RESPONDENTS dispute this
21 CALRECYCLE's contention.

22 **STIPULATED ORDER**

23 71. For the purposes of this Stipulation, the term RESPONDENTS shall refer to
24 any and all RESPONDENTS named in any of the above-referenced matters, jointly and
25 severally, unless otherwise specified.

26 72. RESPONDENTS and CALRECYCLE stipulate to the following terms and
27 conditions in full and complete settlement of this matter:

28 ///

1 (a) RESPONDENTS shall surrender all Registrations and or WTF Permits
2 currently in their possession by close of business December 7, 2010. CALRECYCLE
3 shall also grant amnesty for any Registrations or WTF Permits surrendered during the
4 first 30 days after the issuance of the Administrative Decision in this matter, by any other
5 waste tire hauling or waste tire storage business owned, operated, or which cannot
6 continue operating without the participation of the RESPONDENTS.

7 (b) RESPONDENTS shall pay a fine to CALRECYCLE in the amount of
8 \$75,000.00 which is a total of \$53,000.00 to be held in abeyance for a period of five
9 years and \$22,000.00 paid in the following manner:

10 i. \$5,000.00 paid within 30 days of the issuance of the Administrative
11 Decision;

12 ii. Monthly payments of \$500.00, on top of the amount currently being
13 paid on the initial debt owed by Letty's Tires pursuant to the Prior Stipulation, until that
14 initial debt is paid, then monthly payments of \$1,000.00 until the total of \$22,000 has
15 been paid;

16 iii. The first monthly payment shall be due on January 1, 2011;

17 iv. Payments shall be made to CALRECYCLE, Attn: Esther Gallegos,
18 P.O. Box 4025, Sacramento, CA, 95812-4025, or to such other person and/or place as
19 CALRECYCLE or its agent designates in writing;

20 v. Should RESPONDENTS fail to remit a payment to CALRECYCLE
21 within 30 days of a due date CALRECYCLE shall notify RESPONDENTS of their failure
22 to pay by the required date. RESPONDENTS shall have 30 days after the date of
23 notification to bring their account up to date. If RESPONDENTS fail to bring its account
24 up to date at the end of those 30 days, CALRECYCLE shall seek immediate relief by
25 pursuing collection on each of the three Waste Tire Hauler Surety Bonds held on behalf
26 of RESPONDENTS.

27 ///

28 ///

1 (c) \$53,000.00 will be held in abeyance for five years after the issuance of the
2 Administrative Decision at which time it will expire, be abated, and have no force or
3 effect. Said expiration or abatement shall not cause any taxable consequence to
4 RESPONDENTS. This amount will become immediately due and payable upon a
5 determination of default made by either:

- 6 i. CALRECYCLE, that is not appealed to OAH by RESPONDENTS, or
- 7 ii. OAH following its decision on an appeal filed by RESPONDENTS;

8 (d) RESPONDENTS shall have until December 7, 2010, to remove any waste
9 or used tires over the amount of 499 waste or used tires that are currently being stored
10 by, or on any property owned or leased to, RESPONDENTS;

11 i. RESPONDENT B&M TIRES will complete and submit CTL
12 information documenting the hauling of any tires from any property owned or leased to
13 RESPONDENTS that has 500 or more used or waste tires on it. RESPONDENT B&M
14 TIRES shall only deliver those tires an authorized end-use facility permitted by
15 CALRECYCLE;

16 ii. RESPONDENTS shall inform CALRECYCLE of the locations of the
17 locations at which 500 or more waste or used tires are currently being stored by, or on
18 any property owned or leased to, RESPONDENTS, and CALRECYCLE shall issue those
19 sites a temporary ID number which shall be used by RESPONDENT B&M TIRES on its
20 CTLs.

21 iii. CALRECYCLE shall not enforce WTF permitting violations against
22 RESPONDENTS for those sites disclosed by RESPONDENTS through December 7,
23 2010;

24 iv. Any failure by RESPONDENT to abide by the terms of this
25 subparagraph (c) shall constitute a default of this Stipulation by RESPONDENT.

26 (e) From the date of issuance of the Administrative Decision until the end of
27 the abeyance period, RESPONDENTS shall notify CALRECYCLE in writing within one
28 month if they transfer any vehicle or trailer listed on any of RESPONDENTS'

1 Applications or Amended Applications for a Waste Tire Hauler Registration. Prior to
2 selling the vehicles, RESPONDENTS shall ensure that all hauler stickers and registration
3 are removed from the vehicles. RESPONDENTS shall provide a brief description of the
4 vehicle, license plate number, vehicle identification number, the name of the buyer, and
5 the sale price of the vehicle. This requirement does not apply to transfers of vehicles or
6 trailers occurring prior to the signing of this Stipulation; RESPONDENTS shall provide
7 CALRECYCLE with a list, signed under penalty of perjury, of vehicles or trailers,
8 including license plate numbers and vehicle identification numbers, listed on any of
9 Respondents' Applications or Amended Applications for A Waste Tire Hauler
10 Registration and a statement that those vehicles or trailers were transferred prior to the
11 date of the signing of this Stipulation.

12 (f) Any property owned, rented, or leased by RESPONDENTS in California
13 may be inspected by CALRECYCLE to ensure future compliance with this agreement,
14 the Public Resource Code, and the California Code of Regulations. RESPONDENTS
15 agree to cooperate to the best of their ability by providing access to vehicles, outdoor
16 areas, and non-residential facilities.

17 73. Default: If RESPONDENTS are determined to be in default CALRECYCLE
18 shall send RESPONDENTS a Notice of Default by regular and also by certified U.S.
19 Mail, as well as providing a courtesy copy to RESPONDENTS' attorneys, the Law
20 Offices of Lyle F. Greenberg at 6320 Canoga Avenue, Ste. 1400, Woodland Hills, CA
21 91367 unless written notice of another address is provided to CAL RECYCLE. The
22 courtesy copy to Respondents' attorneys shall have no legal force and effect. Said
23 Notice shall apprise RESPONDENTS of the provision(s) of the Stipulation of which
24 RESPONDENTS are allegedly in default, along with supporting evidence of said default
25 if any exists. RESPONDENTS shall have 30 days from the date of the Notice of Default
26 to provide contrary evidence. RESPONDENTS shall have the option of having a hearing
27 on said evidence before of the Director of CALRECYCLE, or a duly delegated agent for
28 the Director, and shall request said hearing within the same 30-day period.

1 CALRECYCLE shall render a Default Decision if the Director or her agent deems it
2 necessary based on the evidence; RESPONDENTS may appeal said Default Decision to
3 OAH within 30 days of the Issuance of the Default Decision.

4 (a) CALRECYCLE shall deem RESPONDENTS in default if RESPONDENTS
5 are found to be working, on a paid or volunteer basis, in any manner related to waste tire
6 hauling or storage subject to the permitting, manifesting, or hauling requirements under
7 California's Waste Tire Law at PRC section 42800 et. seq and attendant regulations and
8 California's Tire Hauler Registration Law at PRC section 42950 et. seq and attendant
9 regulations; including but not limited to, hauling or storing tires, operating a collection
10 facility, consulting or advising another entity on the business of hauling or storing tires.

11 i. "Tires" includes, but is not limited to, waste tires, used tires, altered
12 waste tires, baled tire, repairable tire, scrap tire, passenger tire
13 equivalents and tire derived product as defined under Public Resources
14 Code, Sections 42801.5 et seq.

15 (b) The following shall be prima facie evidence that RESPONDENTS are
16 working in a manner related to waste tire hauling or storage:

17 i. RESPONDENTS' or their agent are found hauling tires in any
18 vehicle in any amount regulated by the Public Resources Code (more than 9 waste or
19 used tires);

20 • The term agent, for the purposes of this Stipulation, shall be
21 defined in accordance with the definition provided by Black's Law Dictionary as "One
22 who is authorized to act for or in place of another," and shall not include current
23 employees or associates if that employee or associates' only connection with
24 RESPONDENTS is the relationship between that person and RESPONDENTS prior to
25 the issuance of the Administrative Decision. Any person who acts, impliedly or
26 expressly, for or in place of RESPONDENTS, whether that person has been a prior or
27 current employee or associate, after the date of the Administrative Decision may be
28 deemed an agent for the purposes of this agreement.

1 ii. RESPONDENTS or their agent is found storing tires in an amount
2 regulated by the Public Resources Code (500 or more tires);

3 iii. Information identifying RESPONDENTS is found on any Bill of
4 Lading or Receipt from a tire generator or end-use facility.

5 • "Information identifying" RESPONDENTS includes, but is not
6 limited to;

7 aa. Any name RESPONDENTS have ever used;

8 bb. Any derivation of any name RESPONDENTS have
9 ever used;

10 cc. Any telephone number registered to, or paid for by,
11 RESPONDENTS;

12 dd. Any vehicle identification number or license for any
13 vehicle owned, rented, or leased by RESPONDENTS with the exception of any vehicle
14 that has been sold by RESPONDENTS pursuant to subparagraph (e) above;

15 ee. Any address identifying property owned, rented or
16 leased by RESPONDENTS,

17 ff. The social security number or taxpayer identification
18 number of RESPONDENTS; or

19 gg. Any information referencing a business where
20 RESPONDENTS have any ownership interest.

21 iv. Information identifying RESPONDENTS is found on any
22 Comprehensive Trip Log

23 v. Information identifying RESPONDENTS is found or associated with
24 any paperwork filed with the state, city, or county relating to any business that either
25 hauls or stores tires and falls under the regulatory scheme of CALRECYCLE, including
26 applying for any local or state permits upon which a hauling registration or storage permit
27 is issued;

28 ///

1 vi. Information identifying RESPONDENTS is found to be associated
2 with any lease of property, real or personal, that is subsequently used by an entity that
3 hauls or stores tires and falls under CALRECYCLE's jurisdiction;

4 vii. RESPONDENTS gifts, or transfers for a mere nominal sum, any
5 asset later found to be used to haul or store tires in a manner that would be regulated by
6 California's Tires laws.

7 74. No covenant, promise, term, condition, breach or default of or under this
8 Stipulation shall be deemed to have been waived except as expressly so stated in writing
9 by the CIWMB. A waiver by the CIWMB of any breach or default by RESPONDENT
10 under this Stipulation shall not be deemed a waiver of any preceding or subsequent
11 breach or default by RESPONDENTS.

12 75. RESPONDENTS have freely and voluntarily entered into this Stipulation
13 and have been afforded the opportunity to consult with counsel prior to entering into this
14 Stipulation. It is expressly understood and agreed that no representations or promises of
15 any kind, other than as contained herein, have been made by any party to induce any
16 other party to enter into this Stipulation, and that said Stipulation may not be altered,
17 amended, modified or otherwise changed except by a writing executed by each of the
18 parties hereto. Each party hereto agrees to execute and deliver any and all documents
19 and to take any and all actions necessary or appropriate to consummate this Stipulation
20 and to carry out its terms and provisions.

22 76. Except as expressly provided herein, RESPONDENTS waive the right in
23 the entitled matter to a hearing, any and all appeals and any and all rights that may be
24 afforded pursuant to the Public Resources Code, the Administrative Procedure Act, or
25 any other provision of law regarding the express provisions of this Stipulation.

26 77. This Stipulation shall be binding and inure to the benefit of the successors,
27 heirs and assigns of the respective parties hereto.

28 ///

1 78. The Stipulation shall not hinder or prevent RESPONDENTS from collecting
2 any account receivable or paying any account payable which exists prior to or as of the
3 date of the ADMINISTRATIVE DECISION. The collection of said receivables or payment
4 of said payables shall not constitute a default of this Stipulation.

5 79. This Stipulation and the ADMINISTRATIVE DECISION to be issued
6 constitute the entire understanding of the parties concerning the settlement of this
7 proceeding. There are no restrictions, promises, warranties, covenants, undertakings, or
8 representations other than those expressly set forth herein or contained in separate
9 written documents delivered or to be delivered pursuant hereto, and each party
10 expressly acknowledges that it has not relied upon any restrictions, promises,
11 warranties, covenants, undertakings, or representations other than those expressly
12 contained herein. A copy of the ADMINISTRATIVE DECISION shall be served on the
13 Law Offices of Lyle F. Greenberg.
14

15 80. For purposes of this Stipulation, facsimile signatures will be treated as
16 originals until the applicable page(s) bearing non-facsimile signatures have been
17 received by the parties.

18 81. The effective date of this STIPULATION FOR ISSUANCE OF
19 ADMINISTRATIVE DECISION is the date of issuance of the ADMINISTRATIVE
20 DECISION.

21
22 Dated: 11/15/2010

23 
24 TED RAUH
25 DEPUTY DIRECTOR
26 CALIFORNIA DEPARTMENT OF
27 RESOURCES RECYCLING AND RECOVERY

28 Dated: 11-15-2010


HEATHER L. HUNT
STAFF COUNSEL III
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND RECOVERY

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Dated: 11-9-10



LYLE GREENBERG, ATTORNEY FOR
RESPONDENT

Dated: 11-9-10



JORGE L. HOLGUIN DBA LETTY'S TIRES
RESPONDENT

Dated: 11-9-10



LETICIA ZALDIVAR AKA LETICIA HOLGUIN
DBA B & M TIRES;

Dated: _____

PAOLA'S TIRE; PAOLA ZALDIVAR
RESPONDENT

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Dated: _____

LYLE GREENBERG, ATTORNEY FOR
RESPONDENT

Dated: 11-9-10.

JORGE L/HOLGUIN DBA LETTY'S TIRES
RESPONDENT

Dated: 11-9-10

LETICIA ZALDIVAR AKA LETICIA HOLGUIN
DBA B & M TIRES;

Dated: 11-9-10

PAOLA'S TIRE; PAOLA ZALDIVAR
RESPONDENT