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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10
11 In the Matter of:

12 Rubber Recovery, Inc. OPERATOR

13 AND

14 Pioneer Properties, PROPERTY OWNER

15
16 TPID NO.: 1620515-01

17 ASSESSOR'S PARCEL NO.: 0236-071-19

18 RESPONDENT

} STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION FOR
WASTE TIRE STORAGE
REQUIREMENTS

} Agency No: 2011-010991-CAO-
Addendum

19
20 INTRODUCTION

21 The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE
22 DECISION (hereinafter "Stipulation") are the California Department of Resources
23 Recycling and Recovery (CALRECYCLE) and Rubber Recovery, Inc. Operator
24 (RESPONDENT 1) located at 10672-B Calabash Avenue, Fontana, San Bernardino
25 County, CA 92337; Assessor's Parcel Number 0236-071-19 and Pioneer Properties,
26 Property Owner (RESPONDENT 2) located at 15335 Valley Boulevard, Fontana, San
27 Bernardino County, CA 92335:
28

1 CALRECYCLE. Additionally, the waste tires must be removed to an authorized end-use
2 facility.

3 9. On May 23, 2011, a representative of the San Bernardino County Fire
4 Department Community Safety Division issued a Correction Notice to RESPONDENT 1
5 requiring RESPONDENT 1 to store all ground rubber a minimum of 50 feet from any
6 building, provide a five-year certificate for the existing sprinkler system, place the
7 sprinkler system into normal operation immediately, and to remove all rubber products
8 from next to any building.

9
10 **STIPULATED CONCLUSIONS OF LAW**

11 10. RESPONDENT 1, in its capacity as a waste tire hauler, is in violation of
12 PRC Section 42951(b), for failing to transport used or waste tires to a facility that is
13 permitted, exempted, or otherwise authorized by CALRECYCLE.

14 11. RESPONDENTS are in violation of PRC Section 42824, by allowing the
15 acceptance of waste tires at a location where RESPONDENT 1 has not obtained a
16 major WTF permit for this site.

17 12. RESPONDENTS are in violation of Title 14, California Code of
18 Regulations (CCR), section 18420(a) - Applicability, which requires every operator of a
19 major or minor WTF that stores, stockpiles, accumulates, or discards waste tires to
20 acquire a Permit.

21 13. RESPONDENTS are in violation of Title 14, CCR, section 17353(a) –
22 Vector Control, which requires that all waste tires be stored in a manner which prevents
23 the breeding and harborage of mosquitoes, rodents, and other vectors.

24 14. RESPONDENTS are in violation of Title 14, CCR section 17354 (a) – Tire
25 piles shall not exceed 6 feet in height when within 20 feet of any property line or
26 perimeter fencing.

1 documented in Comprehensive Trip Logs that RESPONDENTS shall submit to
2 CALRECYCLE within 45 days of the removal of said waste tires.

3 d) If RESPONDENTS fail to comply with any term of this Stipulation or any
4 term of the attached Compliance Plan RESPONDENTS shall be found in violation of
5 this Stipulation and CALRECYCLE shall immediately suspend processing the Minor
6 WTF permit until such time as RESPONDENTS remove all waste tires in excess of 499,
7 and CALRECYCLE shall file an Administrative Complaint for Waste Tire Storage
8 Penalties against RESPONDENTS. Should CALRECYCLE need to issue an
9 Administrative Complaint for Waste Tire Storage Penalties, the violations and penalties
10 included will be based on the violations listed in this Stipulation as well as any additional
11 violations observed between the date of the Issuance of this Stipulated Order and the
12 date of service of the Administrative Complaint for Waste Tire Storage Penalties.

13 e) RESPONDENT 1 agrees to comply with the terms required by the
14 Correction Notice issued on May 23, 2011 by the San Bernardino County Fire
15 Department Community Safety Division, including but not limited to storing all ground
16 rubber at a minimum distance of 50 feet from any building until adequate spacing and
17 material storage can be maintained, on or before July 10, 2011, notwithstanding any
18 further requirements set by the San Bernardino County Fire Department Community
19 Safety Division.

20 f) RESPONDENT 1 agrees to submit a Fire Control Plan for the site to
21 CALRECYCLE and the local fire control authority for review and comment on or before
22 July 10, 2011. The Fire Control Plan shall include, but not be limited to, the following:

23 i. Emergency contacts, including names and phone numbers
24 (including cellular phone numbers), and

25 ii. Documentation that there is an adequate water supply within
26 the permitted boundary pursuant to 14 CCR 17351(c) with local fire control authority
27 approvals. The water supply shall supply water at a flow rate, with or without electricity,
28

1 at an amount consistent with requirements set by the San Bernardino County Fire
2 Department Community Safety Division.

3 g) RESPONDENTS agree to acquire all approvals required by local
4 control authorities for operation of a Minor WTF at the site, including but not limited to,
5 fire approvals and business licenses, on or before August 15, 2011.

6 h) RESPONDENT 1 agrees to submit to CALRECYCLE a completed
7 Minor WTF Permit Application for the site on or before August 15, 2011.

8 i) RESPONDENT 1 agrees to obtain a Minor WTF Permit for the site from
9 CALRECYCLE on or before February 15, 2012. CALRECYCLE reserves the right to
10 deny RESPONDENT 1's Minor WTF Permit Application and not issue a Minor WTF
11 Permit to RESPONDENT 1 if CALRECYCLE determines that the criteria set forth in
12 Title 14 of the California Code of Regulations are not met.

13 j) Upon presentation of proper credentials, RESPONDENTS agree to
14 allow CALRECYCLE staff, and other authorized agents of CALRECYCLE, to enter the
15 permitted facility during regular business hours without prior notice to conduct
16 inspections and investigations of the premises, to examine and copy tire manifests, and
17 to take photographs of any and all tires on the premises. RESPONDENTS shall permit
18 free and ready access to business records pertaining to the storage or hauling of used
19 and waste tires.

20 20. RESPONDENTS authorize the Deputy Director of the Compliance and
21 Enforcement Division of CALRECYCLE to sign and issue the proposed Decision
22 forthwith.

23 21. Nothing shall be implied in this Stipulation for Issuance of Administrative
24 Decision that shall preclude CALRECYCLE from using any enforcement mechanism,
25 whether administrative, civil, or a referral for criminal penalties, should RESPONDENTS
26 commit future violations of waste tire storage laws, waste tire hauler laws, or the
27 permitted conditions. The Decision adopting this Stipulation is considered a final order
28 that can be used in subsequent enforcement actions as the basis for increased

1 penalties or other administrative or civil litigation as evidence of "prior bad acts",
2 including those in accordance with Public Resources Code section 42843.

3 22. Nothing shall be implied in this Stipulation that shall preclude
4 CALRECYCLE from administering administrative, civil, or criminal penalties for past or
5 current violations of waste tire hauling laws by RESPONDENTS.

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

11 24. RESPONDENTS have freely and voluntarily entered into this
12 STIPULATION and have been afforded the opportunity to consult with counsel prior to
13 entering into this STIPULATION. This Stipulation constitutes a complete settlement of
14 all claims actually made in the Complaint, and includes any claim which arises from or
15 related to the facts and conditions alleged in the Complaint which could have been
16 pursued in the Complaint. It is expressly understood and agreed that no
17 representations or promises of any kind, other than as contained herein, have been
18 made by any party to induce any other party to enter into this STIPULATION, and that
19 said STIPULATION may not be altered, amended, modified or otherwise changed
20 except by a writing executed by each of the parties hereto. Each party hereto agrees to
21 execute and deliver any and all documents and to take any and all actions necessary or
22 appropriate to consummate this STIPULATION and to carry out its terms and
23 provisions.

24 25. RESPONDENTS waive their rights, in the entitled matter to a hearing, and
25 any and all appeals and any and all rights that may be afforded pursuant to the Public
26 Resources Code, the Administrative Procedure Act, or any other provision of law.

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

1 27. This STIPULATION and the Decision constitute the entire understanding
2 of the parties concerning the settlement of this proceeding. There are no restrictions,
3 promises, warranties, covenants, undertakings, or representations other than those
4 expressly set forth herein or contained in separate written documents delivered or to be
5 delivered pursuant hereto, and each party expressly acknowledges that he has not
6 relied upon any restrictions, promises, warranties, covenants, undertakings, or
7 representations other than those expressly contained herein.

8 28. The effective date of the Decision is the date of issuance of the
9 CALRECYCLE Deputy Director's DECISION.

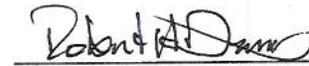
11 Dated: 7/18/2011


LORRAINE VAN KEKERIX
Acting Deputy Director
Compliance and Enforcement Division
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

13 Dated: _____

HEATHER HUNT
Staff Counsel III
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

15 Dated: 7-14-11



ROBERT H. DAVIS
RUBBER RECOVERY, INC.

17 Dated: _____

LEE PAUL WETZEL
PIONEER PROPERTIES

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6 relied upon any restrictions, promises, warranties, covenants, undertakings, or
7 representations other than those expressly contained herein.

8 28. The effective date of the Decision is the date of issuance of the
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10
11
12 Dated: 7/18/2011


LORRAINE VAN KEKERIX
Acting Deputy Director
Compliance and Enforcement Division
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

13
14
15
16
17
18 Dated: 7-19-11


HEATHER HUNT
Staff Counsel III
CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND
RECOVERY

19
20
21
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23 Dated: _____

ROBERT H. DAVIS
RUBBER RECOVERY, INC.

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25
26
27 Dated: 7/12/11


LEE PAUL WETZEL
PIONEER PROPERTIES

Exhibit A

The Operator shall:

1. **By July 27, 2011**, all tire piles, waste tires and tire products, shall NOT exceed 5,000 square feet of contiguous area or 50,000 cubic yards in volume, pursuant to 14 CCR 17354(a).
2. **By July 27, 2011**, all tire piles, waste tires and tire products, shall NOT be stored over 6 feet in height when within 20 feet of any property line or perimeter fencing. All tire piles, waste tires and tire products greater than 1/4, shall NOT be located within 10 feet of any property line, pursuant to 14 CCR 17354(a).
3. **By July 27, 2011**, all tire piles, waste tires and tire products, must have minimum distance between waste tire piles and a minimum distance between waste tire piles and structures located either on-site or off-site as specified in the table below, pursuant to 17354(a).
4. **By July 27, 2011**, all tire piles, waste tires and tire products, must have accessible fire lanes and unobstructed at all times with the minimum width as specified below, pursuant to 14 CCR 17354(b).

Minimum Separation Distances (Ft.)			
Length of Exposed Face (Ft.)	Tire Storage Pile Height (Ft.)		
	6'	8'	10'
25'	50	56	62
50'	66	75	84
100'	84	100	116
150'	99	117	135
200'	111	130	149
250'	118	140	162

5. **By July 27, 2011**, all tire piles, waste tires and tire products, shall be separated from vegetation and other potentially flammable materials by no less than 40 feet, pursuant to 14 CCR 17354(b).
6. **By July 27, 2011**, all tire piles, waste tires and tire products, must free 40 feet from tire inner tubes, pursuant to 17354(b).
7. **By July 27, 2011**, all tire piles, waste tires and tire products, must be removed from rims immediately upon arrival at the facility, pursuant to 14 CCR 17354(b).
8. **By July 27, 2011**, crumb rubber piles must be less than 5,000 square feet square of contiguous area and less than 50,000 cubic yards in volume and the shredder piles must be at least 40 feet in separation. Adequate fires lanes must be maintained during all hours of operation. Tire piles, shredder piles or crumb rubber piles should not block loading dock doors or any other fire escape route.

9. **By July 27, 2011**, maintain and make available to CalRecycle inspectors or its representatives during normal business hours (8 am- 5 pm., Monday through Friday), and submit to CalRecycle by the 15th of each month, a monthly summary of the following:
 - a. Monthly tire count/tonnage records of waste tires and other rubber products received and removed from the facility. This includes material (crumb rubber, etc.) that has been processed at the facility.
 - b. On Monday of every week, the number of waste tires (whole and PTEs) being stored onsite shall be counted and reported. The report shall include the date the count was conducted, the person counting the tires, all clearance distances and tire estimations (tire conversion used pursuant to the tire chart at Exhibit B) of each pile, and overall waste tire and PTE count of the facility. Upon satisfactory reports from operator to CalRecycle for 3 months, this requirement will be reduced to monthly for a period of 6 months, then to quarterly while this stipulation is in effect.
 - c. Daily estimated amount of rims removed from waste tires.

10. **By July 27, 2011**, maintain and make available to CalRecycle inspectors or its representatives during normal business hours (8 am- 5 pm., Monday through Friday) an equipment Downtime Log. The log shall include dates, times, and durations that shredding, rasper, baler, shear and excavator, mobile power unit, crumb rubber processing equipment, and any other tire reduction/baling equipment, etc. is down due to break down or service, including knife changes. The log should include occurrences that affect the normal day-to-day processing of incoming or outgoing tires and any Fire Department or safety trainings.

11. **By July 27, 2011**, submit a 24" by 36" scale drawing outlining all equipment, truck storage areas, fuel tanks, water outlets/hydrants for fire department hook-up, and other onsite structures. The drawing shall delineate the overall square feet available for waste tire storage and processing activities. The schematic shall outline the approximate dimensions and maximum number of tires of the following areas: shred pile(s), used tire piles, rim removal, OTR processing, and any other waste tire storage areas. This drawing shall demonstrate the numbers of tires and size of piles that the current facility is capable of handling while still meeting the requirements of 14 CCR17354

Exhibit B

Calculate by Cubic Yards

Use the following formula based on the length, width, height in feet (obtained by measuring or estimating tire pile size) and convert to cubic yards of tires:

- $[\text{Length (feet)} \times \text{Width (feet)} \times \text{Height (feet)}] \div 27 = \text{Volume (in cubic yards)}$

Once you have determined the cubic yards of a tire pile, multiply cubic yards by the tires per cubic yard (tires/cy) as listed in the conversion tables below or listed under Altered Waste Tire Conversion to determine the number of tires in the pile.

Whole Passenger/Light Truck Tires			
Storage Type	Height of Tire Pile		
(Stored less than 15 years)	(<10 feet)	(10-15 feet)	(>15 feet)
Loose	10 tires/cy	12 tires/cy	14 tires/cy
Barrel	12 tires/cy	14 tires/cy	16 tires/cy
Laced	14 tires/cy	16 tires/cy	18 tires/cy
(Stored 15 years or more)			
Loose	12 tires/cy	14 tires/cy	16 tires/cy
Barrel	14 tires/cy	16 tires/cy	18 tires/cy
Laced	16 tires/cy	18 tires/cy	20 tires/cy

Whole Semi-Truck Tires

Storage Type	Height of Tire Pile		
	<10 feet	(10-15 feet)	(>15 feet)
(Stored less than 15 years)			
Loose	2.5 tires/cy	2.75 tires/cy	3.0 tires/cy
Barrel	4.2 tires/cy	4.4 tires/cy	4.6 tires/cy
Laced	4.1 tires/cy	4.3 tires/cy	4.5 tires/cy
(Stored 15 years or more)			
Loose	3.0 tires/cy	3.5 tires/cy	4.0 tires/cy
Barrel	4.4 tires/cy	4.6 tires/cy	4.8 tires/cy
Laced	4.3 tires/cy	4.5 tires/cy	4.7 tires/cy

Altered Waste Tire Conversion

- Sidewalls or treads = 20 tires/cy
- Primary Shreds = 20 tires/cy
- Shreds 2 inches or smaller = 40 tires/cy
- Crumb Rubber (less than ¼ inch in size) is not regulated by CalRecycle

Calculate by Weight

The California Code of Regulations, 14 CCR Section 17225.770 defines a "passenger tire equivalent" (PTE) as the total weight of altered waste tires, in pounds, divided by 20 pounds. 1 PTE = 1 Waste Tire.
If weight is known: Total Known Weight (pounds) ÷ 20 pounds = PTE