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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12
13 VALLEY TIRE DISTRIBUTION

14
15 RESPONDENT

16
17 TPID NO.: 1732412-01

11 STIPULATION FOR ISSUANCE OF
ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

15 PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

17 AGENCY NO: 2014-011170-ADC

18
19 INTRODUCTION AND PROCEDURAL HISTORY

20 The California Integrated Waste Management Board (CIWMB) is now the California
21 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
22 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
23 (PRC) section 40401(a)(1). The parties to this STIPULATION FOR ISSUANCE OF
24 ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES
25 (hereafter, "Stipulation") are CALRECYCLE and *Valley Tire Distribution* (RESPONDENT)
26 (hereafter, referred to collectively as "the Parties"). On March 16, 2015, CALRECYCLE issued
27 an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE
28 PENALTIES (hereafter, "Administrative Complaint") to RESPONDENT, which included
penalties in the amount of \$5,500.00. Effective service of the Administrative Complaint was

1 completed on March 27, 2015. RESPONDENT was provided with 15 days from the date of
2 receipt of the Administrative Complaint to request a hearing and file a "Notice of
3 Defense/Request for Hearing" with CALRECYCLE to refute the allegations contained therein.
4 RESPONDENT requested a hearing on April 13, 2015. A hearing was scheduled for July 14,
5 2015, in Sacramento, California.

6 In order to avoid the time, expense, and uncertainties attendant with litigation, the
7 Parties hereby submit this Stipulation as final resolution of this matter. In submitting this
8 Stipulation, the Parties understand, acknowledge, and agree to the facts and terms of
9 Stipulation as set forth herein.

10 11 STIPULATED FACTUAL FINDINGS

12 1. The Administrative Complaint was executed by Catherine V. Nystrom, Attorney
13 for CALRECYCLE, acting in her official capacity.

14 2. A "Used or Waste Tire Hauler" or "Hauler" is defined as, "any person engaged in
15 the transportation of used or waste tires, or tire casings, including haulers that the Department
16 [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (Title
17 14 CCR section 18450(a)(37).)

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

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

25 Any waste and used tire hauler hauling waste or used tires for
26 offsite handling, altering, storage, disposal, or any combination thereof,
27 shall complete the California Uniform Waste and Used Tire Manifest as
28 required by the board [CALRECYCLE]. The waste and used tire hauler
shall provide the manifest to the waste or used tire facility operator who
receives the waste or used tires for handling, altering, storage, disposal,

1 or any combination thereof. Each waste and used tire hauler shall submit
2 to the board [CALRECYCLE], on a quarterly schedule, a legible copy of
3 each manifest. The copy submitted to the board [CALRECYCLE] shall
contain the signatures of the generator and the facility operator.

4 5. Pursuant to 14 CCR section 18459.2.1:

5 (a) The waste tire hauler shall submit the completed original
6 CTL Form to the Department [CALRECYCLE] within ninety (90)
7 days of the load shipment. The Manifest Form shall be in the
8 waste tire hauler's possession while transporting used or waste
9 tires and shall be shown upon demand to any representative of
10 the Department [CALRECYCLE], any officer of the California
Highway Patrol, any peace officer, as defined in Sections 830.1 or
11 830.2 of the California Penal Code, or any local public officer
designated by the Department [CALRECYCLE].

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

18 6. 14 CCR section 18459(b) requires the CTL form be completed.

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

23 8. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste
24 tire hauler who intentionally or negligently violates any permit, rule, regulation, standard,
25 requirement, or allows any violation or noncompliance with any permit, rule, regulation,
26 standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation,
27 transportation, or disposal of used or waste tires, shall be liable for a civil penalty.

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1 **FAILING TO SUBMIT CTL FORMS AND SUBMITTING A CTL FORM WITH**
2 **ERRORS/OMMISSIONS**

3 9. Between April 8, 2013 and November 3, 2013, RESPONDENT VALLEY TIRE
4 DISTRIBUTION failed to complete and submit CTL forms to CalRecycle within 90 days after
5 the first transactions were recorded, and one CTL contained errors/omissions. The table
6 below highlights the manifesting violations by RESPONDENT:

7 Comprehensive Trip Log	Violation	Transaction Date	Violation Date
8 4627260-A	Error/Omission on a CTL form	No Date Indicated	Unknown
9 4627259-A	Failure to submit CTL form	January 8, 2013	April 8, 2013
10 4673336-A	Failure to submit CTL form	January 10, 2013	April 10, 2013
11 4673318-B	Failure to submit CTL form	January 14, 2013	April 14, 2013
12 4673325-B	Failure to submit CTL form	January 14, 2013	April 14, 2013
13 4960917-B	Failure to submit CTL form	February 25, 2013	May 26, 2013
14 4673334-A	Failure to submit CTL form	April 3, 2013	July 2, 2013
15 4673332-C	Failure to submit CTL form	April 11, 2013	July 10, 2013
16 4960902-A	Failure to submit CTL form	May 8, 2013	August 6, 2013
17 4960901-C	Failure to submit CTL form	June 11, 2013	September 9, 2013
18 4960916-B	Failure to submit CTL form	August 5, 2013	November 3, 2013

19 **STIPULATED CONCLUSIONS OF LAW**

20 The Parties stipulated to the following conclusions of law:

21 10. RESPONDENT knowingly violated PRC section 42961.5(c)(2) and 14 CCR
22 section 18459.2.1 (a) and (b) by failing to complete and submit CTL forms to CalRecycle within
23 90 days after the first transactions were recorded and submitting a CTL form containing
24 errors/omissions.

25 **STIPULATED ORDER**

26 The Parties stipulate to the following terms and conditions in full and complete
27 settlement of this matter:

28 11. Pursuant to the terms and conditions of this Stipulation, and subject to the
limitations hereunder, RESPONDENT stipulates to an administrative penalty against
RESPONDENT and in favor of CALRECYCLE in the sum of \$5,500.00 for the violations set
forth in this Stipulation. Payment of the penalty shall be satisfied in the following manner:

1 (a) RESPONDENT shall pay \$2,000.00 to CALRECYCLE in accordance with the
2 following:

- 3 i. RESPONDENT shall make installment payments to CALRECYCLE of
4 \$300.00, each month with the first payment due on the 60th day after the
5 effective date of the Administrative Decision issued pursuant to this
6 Stipulation, until the total amount of said payment totals \$2,000.00.
- 7 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
8 date, and if RESPONDENT fails to cure the missed payment(s) within twenty
9 (20) days of said missed payment RESPONDENT shall be found in partial
10 default of this Stipulation. The partial default amount due shall be calculated
11 to include the amount owed from the missing payment(s) plus a 10% late
12 penalty and interest. CALRECYCLE may seek recovery of this amount
13 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
- 14 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
15 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
16 place as CALRECYCLE or its agent may from time to time designate in
17 writing.
- 18 iv. \$3,500.00 of this administrative penalty shall be stayed and held in abeyance
19 for a period of three years. The stayed penalty shall be deemed terminated
20 and shall not be paid by RESPONDENT to CALRECYCLE following the
21 three-year period absent a default as described.

22 12. RESPONDENTS shall maintain a manifest error rate of 7% or less for the entire
23 abeyance period to avoid a full default.

24 13. RESPONDENT shall comply with all other laws related to waste tire storage and
25 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
26 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that
27 is not described by a separate provision of this Stipulation shall constitute a partial default of
28 this Stipulation.

1 14. If CALRECYCLE determines that RESPONDENT has violated any waste tire
2 storage laws, or waste tire hauler laws by creating a new waste tire facility (WTF) with any
3 amount of waste tires onsite, CALRECYCLE will be required to inspect the WTF at an
4 increased frequency, at least monthly, until RESPONDENT comes into compliance.
5 RESPONDENT will grant access for these additional inspections, and will reimburse
6 CALRECYCLE for the cost of those inspections (including time preparing for the inspection,
7 traveling to the site, and preparing and writing any Inspection Report). Additionally, after
8 compliance has again been regained, CALRECYCLE will inspect the WTF twice a year for the
9 remainder of the abeyance period, and RESPONDENT will reimburse CALRECYCLE for the
10 additional inspections (including time preparing for the inspection, traveling to the site, and
11 preparing and writing any Inspection Report). Failure to grant access to inspectors, or failure
12 to reimburse CALRECYCLE for an inspection within 30 days of an invoice shall be deemed a
13 full default of the Stipulation.

14 The Parties agree the following shall apply to a full default or partial default of this
15 Stipulation:

16 15. **Default:** If RESPONDENT defaults under any of the terms of this Stipulation,
17 CALRECYCLE shall send a Notice of Default to RESPONDENT; said Notice of Default shall
18 state the paragraphs or provisions of this Stipulation of which RESPONDENT is in default and
19 the abeyance amount owed. RESPONDENT shall have 30 days from the date of the issuance
20 of the Notice of Default to provide evidence refuting CALRECYCLE's claim of default. After a
21 review of the evidence provided by RESPONDENT, CALRECYCLE shall make a
22 determination regarding the default and, if appropriate, shall issue a Supplemental Decision
23 regarding any remaining penalties due.

- 24 i. **Full Default:** A full default shall result in an order for the remittance of the entire
25 remaining penalty amount due plus the entire remaining amount held in
26 abeyance.
- 27 ii. **Partial Default:** In the event of a partial default, CALRECYCLE shall state the
28 amount of abeyance due, in accordance with the penalty amounts prescribed in

1 Public Resources Code sections 42850, 42850.1, 42962 and 14 CCR sections
2 18429 and 18464 , when it sends its default notice. Upon review of counter
3 arguments, CALRECYCLE shall either advise RESPONDENT that it has
4 determined no default occurred, or shall issue an invoice ordering
5 RESPONDENT to pay the specific penalty within 30 days. A partial default shall
6 apply to any violations of waste tire storage or waste tire hauler laws not
7 specifically stated as a full default above set forth in PRC section 42800 et seq.,
8 PRC section 42950 et seq., and Title 14 of the CCR. Penalties for partial default
9 shall be calculated as a "second offense." Failure to remit payment of a partial
10 default shall constitute a full default.

11 16. Nothing shall be implied in this Stipulation that shall preclude CALRECYCLE
12 from using any enforcement mechanism, whether administrative, civil, or criminal, should
13 RESPONDENT commit future violation of waste tire storage laws or waste tire hauler laws.

14 17. RESPONDENT shall abide by all of the terms and conditions set forth in this
15 Stipulation.

16 18. No covenant, promise, term, condition, breach or default of or under this
17 Stipulation shall be deemed to have been waived except as expressly so stated in writing
18 by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by RESPONDENT
19 under this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or
20 default by RESPONDENT.

21 19. RESPONDENT has freely and voluntarily entered into this Stipulation and have
22 been afforded the opportunity to consult with counsel prior to entering into this Stipulation. It is
23 expressly understood and agreed that no representations or promises of any kind, other than
24 as contained herein, have been made by any party to induce any other party to enter into this
25 Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise
26 changed except by a writing executed by each of the parties hereto. Each party hereto agrees
27 to execute and deliver any and all documents and to take any and all actions necessary or
28 appropriate to consummate this Stipulation and to carry out its terms and provisions.

1 20. Except as expressly provided herein, RESPONDENT waives the right in the
2 entitled matter to a hearing, any and all appeals, and any and all rights that may be
3 afforded pursuant to the PRC, the Administrative Procedure Act, or any other provision of law
4 regarding the express provisions of this Stipulation.

5 21. This Stipulation shall be binding and inure to the benefit of the successors, heirs
6 and assigns of the respective parties hereto.

7 22. This Stipulation and the corresponding Administrative Decision to be issued
8 constitute the entire understanding of the parties concerning the settlement of this proceeding.
9 There are no restrictions, promises, warranties, covenants, undertakings, or representations
10 other than those expressly set forth herein or contained in separate written documents
11 delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it
12 has not relied upon any restrictions, promises, warranties, covenants, undertakings, or
13 representations other than those expressly contained herein.

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

17 24. The effective date of this Stipulation is the date of issuance of the Administrative
18 Decision.

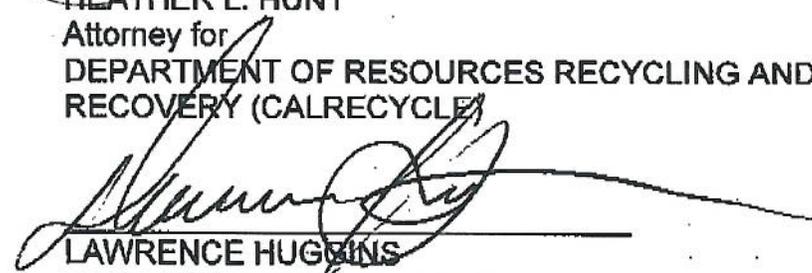
19 Dated: 7/14/15


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

23 Dated: 7-13-15


HEATHER L. HUNT
Attorney for
DEPARTMENT OF RESOURCES RECYCLING AND
RECOVERY (CALRECYCLE)

26 Dated: 7/10/2015


LAWRENCE HUGGINS
VALLEY TIRE DISTRIBUTION