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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

CASE NO. IH15-001-TIR

12
13 VALLEY TIRE DISTRIBUTION

ADMINISTRATIVE DECISION FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

14
15 RESPONDENT

16
17 TPID NO.: 1732412-01

AGENCY NO: 2014-011170-ADC

18
19 INTRODUCTION AND PROCEDURAL HISTORY

20 The California Department of Resources Recycling and Recovery (CALRECYCLE) has
21 authority to regulate and conduct enforcement actions regarding Waste Tire Haulers and
22 Waste Tire Facilities within the State of California under Public Resources Code (PRC)
23 sections 42850 et seq. and 42962 et seq., and attendant regulations contained in 14 California
24 Code of Regulations (CCR).

25 This Administrative Decision for Waste Tire Hauler Administrative Penalties is based on
26 the Stipulation for Issuance Of Administrative Decision For Waste Tire Hauler Administrative
27 Penalties (Stipulation) signed by Lawrence Huggins (RESPONDENT) on July 10, 2015.

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1 On March 16, 2015, CALRECYCLE issued an ADMINISTRATIVE COMPLAINT FOR
2 WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (hereafter, "Administrative
3 Complaint") to RESPONDENT, which included penalties in the amount of \$5,500.00. Effective
4 service of the Administrative Complaint was completed on March 27, 2015. RESPONDENT
5 was provided with 15 days from the date of receipt of the Administrative Complaint to request a
6 hearing and file a "Notice of Defense/Request for Hearing" with CALRECYCLE to refute the
7 allegations contained therein. RESPONDENT requested a hearing on April 13, 2015. A
8 hearing was scheduled for July 14, 2015, in Sacramento, California.

9 Pursuant to the Stipulation, and good cause appearing therefore, the following
10 Stipulated Factual Findings and Legal Conclusions of Law are made, and the following Order
11 is issued:

12 STIPULATED FACTUAL FINDINGS

13
14 1. 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 2. 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 3. 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
4 contain the signatures of the generator and the facility operator.

4 4. 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
11 Highway Patrol, any peace officer, as defined in Sections 830.1 or
12 830.2 of the California Penal Code, or any local public officer
13 designated by the Department [CALRECYCLE].

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

18 5. 14 CCR section 18459(b) requires the CTL form be completed.

19 6. 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 7. 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 8. 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:

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

16 **LEGAL CONCLUSIONS**

17 The Parties stipulated to the following conclusions of law:

18 9. RESPONDENT knowingly violated PRC section 42961.5(c)(2) and 14 CCR
19 section 18459.2.1 (a) and (b) by failing to complete and submit CTL forms to CalRecycle within
20 90 days after the first transactions were recorded and submitting a CTL form containing
21 errors/omissions.

22 **ORDER**

23 10. CALRECYCLE approves of, and adopts the terms of the Stipulation, and hereby
24 orders RESPONDENT to comply with the following terms, in accordance with the
25 Stipulation:

26 11. Pursuant to the terms and conditions of the Stipulation, and subject to the
27 limitations hereunder, RESPONDENT stipulates to an administrative penalty against
28

1 RESPONDENT and in favor of CALRECYCLE in the sum of \$5,500.00 for the violations set
2 forth in the Stipulation. Payment of the penalty shall be satisfied in the following manner:

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

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

24 12. RESPONDENT shall maintain a manifest error rate of 7% or less for the entire
25 abeyance period to avoid a full default.

26 13. RESPONDENT shall comply with all other laws related to waste tire storage and
27 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
28 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that

1 is not described by a separate provision of the Stipulation shall constitute a partial default of
2 the Stipulation.

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

16 The Parties agree the following shall apply to a full default or partial default of the
17 Stipulation:

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

- 26 i. **Full Default:** A full default shall result in an order for the remittance of the entire
27 remaining penalty amount due plus the entire remaining amount held in
28 abeyance.

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

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

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

18
19 This Administrative Decision shall become effective as of the date signed below:

20
21 Dated this 19 day of July, 2015.

22
23 
24 _____
25 MARK DE BIE
26 Deputy Director
27 DEPARTMENT OF RESOURCES, RECYCLING AND
28 RECOVERY (CALRECYCLE)