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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12
13 WILSON WAY TIRE COMPANY, INC.

14
15 RESPONDENT

16
17 TPID NO.: 1000837-01

ADMINISTRATIVE COMPLAINT
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

18
19 AGENCY NO: 2015-011180-ADC

20 INTRODUCTION

21 This Administrative Complaint For Waste Tire Hauler Administrative Penalties
22 (hereafter, "Administrative Complaint") is issued by the California Department of Resources
23 Recycling and Recovery ("CALRECYCLE") to Wilson Way Tire Company, Inc. (hereafter
24 referred to as "RESPONDENT") seeking \$9,950.00. Pursuant to Public Resources Code
25 (PRC) section 42962(c), CALRECYCLE is authorized to administratively impose penalties on a
26 person to whom civil liability may be levied. This Administrative Complaint is so issued based
27 on the following facts.

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1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has the authority to permit, regulate, and conduct enforcement
3 actions regarding waste tire facilities and waste tire haulers within the State of California
4 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in
5 Title 14 of the California Code of Regulations ("CCR").

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

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

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

17 Any waste and used tire hauler hauling waste or used tires for
18 offsite handling, altering, storage, disposal, or any combination thereof,
19 shall complete the California Uniform Waste and Used Tire Manifest as
20 required by the board [CALRECYCLE]. The waste and used tire hauler
21 shall provide the manifest to the waste or used tire facility operator who
22 receives the waste or used tires for handling, altering, storage, disposal,
23 or any combination thereof. Each waste and used tire hauler shall submit
24 to the board [CALRECYCLE], on a quarterly schedule, a legible copy of
25 each manifest. The copy submitted to the board [CALRECYCLE] shall
26 contain the signatures of the generator and the facility operator.

27 5. Pursuant to 14 CCR section 18459.2.1:

28 (a) The waste tire hauler shall submit the completed original
CTL Form to the Department [CALRECYCLE] within ninety (90)
days of the load shipment. The Manifest Form shall be in the
waste tire hauler's possession while transporting used or waste
tires and shall be shown upon demand to any representative of
the Department [CALRECYCLE], any officer of the California
Highway Patrol, any peace officer, as defined in Sections 830.1 or

1 830.2 of the California Penal Code, or any local public officer
2 designated by the Department [CALRECYCLE].

3 (b) If approved by the Department [CALRECYCLE] pursuant
4 to PRC section 42961.5, any person that is subject to the
5 requirements set forth in above (a) may substitute their own
6 functionally equivalent EDT [Electronic Data Transfer] form, once
7 approved by the Department [CALRECYCLE], in lieu of the
8 Department [CALRECYCLE] required form and submit an
9 electronic report within ninety (90) days of the load shipment to
10 the Department [CALRECYCLE], in lieu of submitting the required
11 paper form pursuant to Section 18459.1.2. The electronic report
12 shall include all information required to be on the CTL Form.

13 6. 14 CCR section 18459(c)(1) requires waste or used tire haulers, hauling
14 any amount of waste or used tires at any one time in a registered vehicle, to comply
15 with the Waste Tire Manifest System.

16 7. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall
17 submit the completed original CTL Form to the Department within ninety (90) days of
18 the load shipment..."

19 8. 14 CCR section 18459(b) requires the CTL form be completed.

20 9. 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a
21 registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any
22 waste or used tires, shall not transport waste or used tires without a properly completed CTL
23 form, shall not transport waste or used tires without having a completed copy of the CTL form
24 in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL
25 form with the waste or used tire generator or end-use facility, and shall keep a copy of the
26 completed CTL form.

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

11. RESPONDENT became a registered waste tire hauler on March 2, 1998.

12. On September 22, 2014, Tire Enforcement Agency (TEA) Inspector Harprit Mattu with San Joaquin County Environmental Health Department conducted an inspection of Ameron Pipe Group (TPID #1370161) located at 10100 West Linne Road, Tracy, CA, and observed seventeen (17) Electronic Data Transfer [EDT] records left by RESPONDENT that had not been submitted to CALRECYCLE at the time of the inspection. Five of these EDT records were subsequently submitted to CALRECYCLE after the inspection, but after the 90-day time period as required by PRC section 42961.5(c)(2). The remaining twelve (12) EDT records were not submitted to CALRECYCLE. Because a CALRECYCLE registered vehicle was used, RESPONDENT was required to use a manifest form for each transaction no matter the amount of tires in the load, pursuant to 14 CCR 18459(c)(1). Inspector Mattu referred the incident to CALRECYCLE's Tire Hauler Compliance Unit in a Hauler Observation Report dated September 22, 2014.

13. On December 15, 2014, Inspector Mattu conducted an inspection of Tiger Lines, LLC. (TPID #1411691), located at 927 Black Diamond Way, Lodi, CA and observed thirty-three (33) EDT records left by RESPONDENT that had not been electronically submitted to CALRECYCLE within the 90-day time period as required by PRC section 42961.5(c)(2). This was documented in a December 15, 2014 Hauler Observation Report.

50 COUNTS OF FAILING TO SUBMIT CTL FORMS/EDT RECORDS WITHIN 90 DAYS

14. Between January 28, 2014 and November 17, 2014 RESPONDENT failed to submit CTL Forms/EDT Records within 90 days to CALRECYCLE. The table below highlights the violations by RESPONDENT:

EDT Receipt	Violation	Location Name	Transaction Date	Submittal Date	Violation Date	Penalty Assessed
		Ameron Pipe Group				
175211*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 16, 2014	November 20, 2014	July 15, 2014	\$199
175204*	Failure to submit CTL	Ameron Pipe Group	April 11, 2014	Not Submitted	July 10, 2014	\$199
175123*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 4, 2014	November 20, 2014	July 3, 2014	\$199
175117*	Failure to submit CTL form within 90 days	Ameron Pipe Group	March 31, 2014	November 20, 2014	June 29, 2014	\$199
174919*	Failure to submit CTL	Ameron Pipe Group	February 18, 2014	Not Submitted	May 19, 2014	\$199

1	174681*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 21, 2014	November 20, 2014	April 21, 2014	\$199
2							
3	174675*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 16, 2014	November 20, 2014	April 16, 2014	\$199
4	171546*	Failure to submit CTL	Ameron Pipe Group	December 30, 2013	Not Submitted	March 30, 2014	\$199
	171525*	Failure to submit CTL	Ameron Pipe Group	December 16, 2013	Not Submitted	March 16, 2014	\$199
	171511*	Failure to submit CTL	Ameron Pipe Group	December 9, 2013	Not Submitted	March 9, 2014	\$199
5	171504*	Failure to submit CTL	Ameron Pipe Group	December 2, 2013	Not Submitted	March 2, 2014	\$199
	171392*	Failure to submit CTL	Ameron Pipe Group	November 25, 2013	Not Submitted	February 23, 2014	\$199
6	171381*	Failure to submit CTL	Ameron Pipe Group	November 18, 2013	Not Submitted	February 16, 2014	\$199
7	171366*	Failure to submit CTL	Ameron Pipe Group	November 11, 2013	Not Submitted	February 9, 2014	\$199
	171019	Failure to submit CTL	Ameron Pipe Group	November 8, 2013	Not Submitted	February 6, 2014	\$199
8	171355*	Failure to submit CTL	Ameron Pipe Group	November 4, 2013	Not Submitted	February 2, 2014	\$199
	171014*	Failure to submit CTL	Ameron Pipe Group	October 30, 2013	Not Submitted	January 28, 2014	\$199
9			<i>Tiger Lines, LLC.</i>				
10	170472	Failure to submit CTL	Tiger Lines LLC.	January 15, 2014	Not Submitted	April 15, 2014	\$199
	170475*	Failure to submit CTL	Tiger Lines LLC.	January 22, 2014	Not Submitted	April 22, 2014	\$199
	170476*	Failure to submit CTL	Tiger Lines LLC.	January 28, 2014	Not Submitted	April 28, 2014	\$199
11	169887*	Failure to submit CTL	Tiger Lines LLC.	January 19, 2014	Not Submitted	April 19, 2014	\$199
	170477	Failure to submit CTL	Tiger Lines LLC.	February 4, 2014	Not Submitted	May 5, 2014	\$199
	170480	Failure to submit CTL	Tiger Lines LLC.	February 19, 2014	Not Submitted	May 20, 2014	\$199
12	170481*	Failure to submit CTL	Tiger Lines LLC.	March 5, 2014	Not Submitted	June 3, 2014	\$199
	170482*	Failure to submit CTL	Tiger Lines LLC.	March 11, 2014	Not Submitted	June 9, 2014	\$199
13	170486	Failure to submit CTL	Tiger Lines LLC.	March 19, 2014	Not Submitted	June 17, 2014	\$199
	170488*	Failure to submit CTL	Tiger Lines LLC.	March 24, 2014	Not Submitted	June 22, 2014	\$199
14	170491	Failure to submit CTL	Tiger Lines LLC.	March 25, 2014	Not Submitted	June 23, 2014	\$199
	170492	Failure to submit CTL	Tiger Lines LLC.	April 1, 2014	Not Submitted	June 30, 2014	\$199
	170493*	Failure to submit CTL	Tiger Lines LLC.	April 5, 2014	Not Submitted	July 4, 2014	\$199
15	170495	Failure to submit CTL	Tiger Lines LLC.	April 7, 2014	Not Submitted	July 6, 2014	\$199
	170496*	Failure to submit CTL	Tiger Lines LLC.	April 11, 2014	Not Submitted	July 10, 2014	\$199
16	170497	Failure to submit CTL	Tiger Lines LLC.	April 15, 2014	Not Submitted	July 14, 2014	\$199
	170499	Failure to submit CTL	Tiger Lines LLC.	April 17, 2014	Not Submitted	July 16, 2014	\$199
17	170500	Failure to submit CTL	Tiger Lines LLC.	April 23, 2014	Not Submitted	July 22, 2014	\$199
	175354	Failure to submit CTL	Tiger Lines LLC.	April 29, 2014	Not Submitted	July 28, 2014	\$199
	175356	Failure to submit CTL	Tiger Lines LLC.	May 7, 2014	Not Submitted	August 5, 2014	\$199
18	175358	Failure to submit CTL	Tiger Lines LLC.	May 13, 2014	Not Submitted	August 11, 2014	\$199
	175360	Failure to submit CTL	Tiger Lines LLC.	May 20, 2014	Not Submitted	August 18, 2014	\$199
19	174835	Failure to submit CTL	Tiger Lines LLC.	May 27, 2014	Not Submitted	August 25, 2014	\$199
	175361	Failure to submit CTL	Tiger Lines LLC.	June 3, 2014	Not Submitted	September 1, 2014	\$199
20	175364	Failure to submit CTL	Tiger Lines LLC.	June 11, 2014	Not Submitted	September 9, 2014	\$199
21	175365	Failure to submit CTL	Tiger Lines LLC.	June 17, 2014	Not Submitted	September 15, 2014	\$199
22	175367	Failure to submit CTL	Tiger Lines LLC.	June 25, 2014	Not Submitted	September 23, 2014	\$199
23	175369*	Failure to submit CTL	Tiger Lines LLC.	July 9, 2014	Not Submitted	September 7, 2014	\$199
	175370*	Failure to submit CTL	Tiger Lines LLC.	July 11, 2014	Not Submitted	October 9, 2014	\$199
24	175371*	Failure to submit CTL	Tiger Lines LLC.	July 15, 2014	Not Submitted	October 13, 2014	\$199
25	175167	Failure to submit CTL	Tiger Lines LLC.	July 30, 2014	Not Submitted	October 28, 2014	\$199
26	175375	Failure to submit CTL	Tiger Lines LLC.	August 6, 2014	Not Submitted	November 4, 2014	\$199
27	175379*	Failure to submit CTL	Tiger Lines LLC.	August 19, 2014	Not Submitted	November 17, 2014	\$199

*Signifies that even though less than 10 waste/used tires were picked up by a CalRecycle Registered vehicle, a manifest form was still required to be completed

1 **KNOWLEDGE OF HAULING AND MANIFESTING REQUIREMENTS**

2 15. At the time of RESPONDENT's initial hauler registration and subsequently during
3 the annual hauler registration renewal process, RESPONDENT was provided with instructions
4 regarding the proper completion, retention, and delivery of CTL forms. At the time of
5 RESPONDENT's initial registration and annually during the hauler registration renewal
6 process, RESPONDENT received a hauler package containing the following: (1) instructions
7 on transporting waste/used tires; (2) a complete list of hauler and manifesting regulations (Title
8 14, California Code of Regulations, Chapter 6); and (3) a training compact disc on the proper
9 storage and transportation of waste/used tires. RESPONDENT was also sent a CTL Guidance
10 Manual, explaining in detail how to properly complete the CTL form, including the requirement
11 to "manifest" (to document on the CTL form) all waste and used tire pickups and deliveries,
12 and a Hauler Alert dated November 18, 2011, informing RESPONDENT of the zero tolerance
13 policy applicable to transporting waste tires to unauthorized locations.

14 16. On July 10, 2015, CALRECYCLE issued RESPONDENT Streamlined Penalty
15 Letter 2015-000554-PEN (SPL). The SPL was received by RESPONDENT on July 13, 2015.
16 The SPL offered RESPONDENT an opportunity to resolve the violations through settlement.
17 The letter explained RESPONDENT's violations and offered an opportunity to avoid the cost
18 and time of the administrative legal process by having RESPONDENT agree to the
19 streamlined penalty process. RESPONDENT was offered a streamlined penalty in the amount
20 of \$2,500.00. RESPONDENT was given 15 days from the receipt of the SPL to respond to
21 CALRECYCLE.

22 17. On August 4, 2015, CALRECYCLE issued RESPONDENT a reminder letter
23 advising RESPONDENT that CALRECYCLE needed a response on the streamlined penalty
24 offer and extended the response date to August 18, 2015.

25 18. On August 31, 2015, a CALRECYCLE Program Technician with the Tire Hauler
26 Compliance Unit contacted RESPONDENT via telephone. During the call, Ms. Kitty Green, an
27 agent and/or employee of RESPONDENT, stated that she felt the SPL had been previously
28 resolved.

1 19. Immediately following the August 31, 2015 telephone call, Keith Cambridge,
2 Supervisor of the Tire Hauler Compliance Unit for CALRECYCLE, sent an email message to
3 Ms. Green emphasizing that the violations cited in the SPL had not been resolved and that
4 SPL was still active. Ms. Green responded that she would discuss the SPL with her
5 supervisor. No further response was made by RESPONDENT.

6
7 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

8 20. CALRECYCLE is seeking administrative penalties of \$9,950.00, pursuant to PRC
9 section 42962(c) based on the aforementioned facts and for the following violation:

10 a. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by failing to
11 submit CTL forms or EDT records within 90 days of tire shipments to
12 CALRECYCLE.

13
14 **PENALTIES**

15 21. CALRECYCLE's authority to assess administrative penalties against
16 RESPONDENT as a waste and used tire hauler is set forth in PRC section 42962(c) and Title
17 14 CCR section 18463.

18 Pursuant to PRC section 42962(c):

19 In addition to the civil penalty that may be imposed pursuant to subdivision
20 (a), the board [CALRECYCLE] may impose civil penalties administratively
21 in an amount not to exceed five thousand dollars (\$5,000) for each violation
22 of a separate provision or for continuing violations for each day that
23 violation continues, on any person who intentionally or negligently violates
any permit, rule, regulation, standard, or requirement issued or adopted
pursuant to this chapter. . .

24 Title 14 CCR section 18463, provides in relevant part:

25 Any waste tire generator, end-use facility, or waste tire hauler, or any party
26 or person who commits any of the following acts shall be liable for a civil
penalty:

27 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
28 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
generation, transportation or disposal of used or waste tires.

1 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
2 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
3 Public Resources Code relating to the generation, transportation or disposal of
4 used or waste tires...

5 22. Title 14 CCR section 18464 authorizes penalties for violations of PRC section
6 42961.5 with penalties ranging from \$100.00-\$500.00 per violation for a first offense.

7 23. RESPONDENT committed a first offense of 50 counts of failing to submit CTL
8 forms/EDT records within 90 days to CALRECYCLE.

9 24. As required by Title 14 CCR section 18465, in determining an appropriate
10 administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the
11 following factors:

- 12 (1) The nature, circumstances, extent, and gravity of the violation.
- 13 (2) Evidence that the violation was willful or negligent.
- 14 (3) The good or bad faith exhibited by the party.
- 15 (4) History of violation of the same or similar nature.
- 16 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
17 in remediating the violation.
- 18 (6) The extent that the party has mitigated or attempted to mitigate any damage
19 or injury caused by his or her violation.
- 20 (7) Evidence of any financial gain resulting from the violation.
- 21 (8) Such other matters as justice may require.

22
23 25. Accordingly, CALRECYCLE hereby requests that a waste tire hauler
24 administrative penalty be assessed against RESPONDENT in the sum of \$9,950.00.

25
26 **RIGHT TO HEARING**

27 You are hereby notified that pursuant to the provisions of PRC section 42961.1 and
28 Government Code section 11505 that you are entitled to a hearing to refute the allegations

1 against you contained in this ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER
2 ADMINISTRATIVE PENALTIES. If you wish to have a hearing on this matter, you must
3 complete and return the enclosed REQUEST FOR HEARING/ NOTICE OF DEFENSE to
4 our Legal Office within 15 days of receipt of this Administrative Complaint. Failure to
5 complete and return the REQUEST FOR HEARING/NOTICE OF DEFENSE within 15 days
6 will be deemed a waiver of your right to a hearing.

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

11
12 Dated this 8 day of March, 2016.

13
14 
15 CATHERINE V. NYSTROM
16 Attorney for
17 Department of Resources Recycling and
18 Recovery (CALRECYCLE)