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8
9 STATE OF CALIFORNIA

10 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:	}	ADMINISTRATIVE DECISION
12		PURSUANT TO STIPULATION FOR
13 LUNAS CONSTRUCTION CLEAN-UP,		WASTE TIRE HAULER
14 INC.		ADMINISTRATIVE PENALTIES
15 TPID NO: 1599574-01		AGENCY NO: 2011-011129-ADC
16 RESPONDENT.	DAH NO: 2012-040692	

17
18 **INTRODUCTION**

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

24 This Administrative Decision Pursuant to Stipulation For Waste Tire Hauler
25 Administrative Penalties is based on the Stipulation for Issuance of Administrative Decision for
26 Waste Tire Hauler Administrative Penalties (Stipulation) signed by NORBERTO MADRIGAL,
27 AS REPRESENTATIVE OF LUNAS CONSTRUCTION CLEAN-UP (RESPONDENT) on
28 September 13, 2012.

1 The Administrative Complaint for Waste Tire Hauler Administrative Penalties
2 (Complaint) was served on RESPONDENT on March 5, 2011. RESPONDENT requested a
3 hearing on March 6, 2012. A hearing was originally scheduled for September 12, 2012, in Los
4 Angeles, California, but the California Office of Administrative Hearings (OAH) graciously
5 granted the parties a continuance of the hearing until September 14, 2012.

6 Pursuant to the Stipulation, and good cause appearing therefore, the following
7 Stipulated Factual Findings and Legal Conclusions are made, and the following Order is
8 issued:

9 **STIPULATED FACTUAL FINDINGS**

10 1. RESPONDENT has been registered to haul waste and used tires in California by
11 CALRECYCLE since 2011. A copy of California's waste tire hauler laws and regulations were
12 provided to RESPONDENT each year along with its renewed Waste and Used Tire Hauler
13 Registration.

14 2. PRC section 42951(b) requires a registered waste and used tire hauler to
15 transport waste or used tires only to a facility that is permitted, excluded, exempted, or
16 otherwise authorized by the board, by statute, or by regulation, to accept waste and used tires,
17 or to a facility that lawfully accepts waste or used tires for reuse or disposal.

18 3. 14 CCR section 18420(a)(3) requires any person storing 500 or more waste tires
19 to obtain a waste tire facility permit.

20 4. 14 CCR section 18460.2(f) prohibits waste tire haulers from transporting used or
21 waste tires to an end-use facility not legally authorized to accept waste tires.

22 5. During the time between January 4, 2011 and December 29, 2011,
23 RESPONDENT transported 102 loads of 500 or more used or waste tires to a waste tire facility
24 (WTF) located at 23802 Pine Street, Lot-2 Newhall, CA (the site).

25 6. At no time between January 4, 2011 and December 29, 2011, was a waste tire
26 facility permit issued or in effect for the site.

27 7. According to PRC section 42961.5(c)(2), any waste and used tire hauler hauling
28 waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof,

1 shall complete the California Uniform Waste and Used Tire Manifest as required by the board
2 The waste and used tire hauler shall provide the manifest to the waste or used tire facility
3 operator who receives the waste or used tires for handling, altering, storage, disposal, or any
4 combination thereof. Each waste and used tire hauler shall submit to the board, on a quarterly
5 schedule, a legible copy of each manifest. The copy submitted to the board shall contain the
6 signatures of the generator and the facility operator.

7 8. 14 CCR section 18460.2(b) requires every waste and used tire hauler to
8 complete Manifest Forms (CTLs) for each pick-up or delivery of any used or waste tires in
9 accordance with the directions set forth on CALRECYCLE Form number 203.

10 9. 14 CCR section 18459(c)(1) requires haulers to comply with the manifest system
11 requirements by completing CALRECYCLE Form number 203.

12 10. During the time between June 1, 2011 and June 30, 2011, RESPONDENT
13 submitted CTL's with errors and omissions on at least seven (7) occasions.

14 11. During an inspection of the site on May 31, 2011, and documented in Waste Tire
15 Survey and Inspection Report (Inspection Report) number I1-1168835, Inspector Vance Tracy
16 observed more than 10,000 waste tires.

17 12. On August 9, 2011, Inspector Michael Payan, from CALRECYCLE's Tire Hauler
18 Compliance Unit conducted an audit of the Manifest Forms submitted to CALRECYCLE
19 between January 1, 2011 and May 31, 2011, by RESPONDENT. The audit revealed that the
20 operator transported 500 or more waste and used tires to the site on at least thirty-five (35)
21 separate occasions, each time creating, and delivering to, an unpermitted WTF in violation of
22 PRC section 42951(b) and 14 CCR section 18460.2(f). In Table 1 below are those shipments
23 of waste/used tires.

24 **Table 1**

25 Comprehensive			Delivery	
26 Trip Log	Load Date	Hauler Name	PTE	Facility Name
27				Lunas Construction -
28 4198296-C	01/04/2011	Lunas Construction	578	Newhall site

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					Lunas Construction - Newhall site.
4198295-C	01/06/2011	Lunas Construction	796		
4198288-C	01/07/2011	Lunas Construction	562		Lunas Construction - Newhall site
4198283-C	01/10/2011	Lunas Construction	521		Lunas Construction - Newhall site
4198228-C	01/12/2011	Lunas Construction	586		Lunas Construction - Newhall site
4175916-C	01/25/2011	Lunas Construction	1560		Lunas Construction - Newhall site
4182054-C	01/26/2011	Lunas Construction	1600		Lunas Construction - Newhall site
4182011-B	01/31/2011	Lunas Construction	1028		Lunas Construction - Newhall site
4182014-B	02/01/2011	Lunas Construction	707		Lunas Construction - Newhall site
4182088-C	02/07/2011	Lunas Construction	1554		Lunas Construction - Newhall site.
4207746-C	02/08/2011	Lunas Construction	592		Lunas Construction - Newhall site
4207728-B	02/18/2011	Lunas Construction	1280		Lunas Construction - Newhall site
4207714-A	02/21/2011	Lunas Construction	545		Lunas Construction - Newhall site
4207795-C	02/21/2011	Lunas Construction	570		Lunas Construction - Newhall site.

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					Lunas Construction - Newhall site
4207800-A	02/23/2011	Lunas Construction	614		
4182027-B	02/23/2011	Lunas Construction	700		Lunas Construction - Newhall site
4207792-C	02/26/2011	Lunas Construction	2980		Lunas Construction - Newhall site
4207765-A	02/28/2011	Lunas Construction	544		Lunas Construction - Newhall site
4207702-C	03/01/2011	Lunas Construction	771		Lunas Construction - Newhall site.
4233947-C	03/16/2011	Lunas Construction	754		Lunas Construction - Newhall site
4263875-C	03/16/2011	Lunas Construction	618		Lunas Construction - Newhall site
4263837-C	03/21/2011	Lunas Construction	1338		Lunas Construction - Newhall site
4263856-C	03/24/2011	Lunas Construction	1021		Lunas Construction - Newhall site.
4263995-C	03/31/2011	Lunas Construction	962		Lunas Construction - Newhall site
4263999-C	04/02/2011	Lunas Construction	505		Lunas Construction - Newhall site
4251202-B	04/06/2011	Lunas Construction	1404		Lunas Construction - Newhall site
4251206-B	04/11/2011	Lunas Construction	1617		Lunas Construction - Newhall site.

1					Lunas Construction -
2	4263977-C	04/11/2011	Lunas Construction	770	Newhall site
3					Lunas Construction -
4	4263922-C	04/21/2011	Lunas Construction	715	Newhall site
5					Lunas Construction -
6	4251216-B	04/21/2011	Lunas Construction	1279	Newhall site
7					Lunas Construction -
8	4251217-B	04/21/2011	Lunas Construction	1253	Newhall site
9					Lunas Construction -
10	4263911-C	04/29/2011	Lunas Construction	530	Newhall site.
11					Lunas Construction -
12	4233865-C	05/16/2011	Lunas Construction	636	Newhall site
13					Lunas Construction -
14	4233943-B	05/16/2011	Lunas Construction	1700	Newhall site
15					Lunas Construction -
16	4233950-B	05/18/2011	Lunas Construction	866	Newhall site

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18 13. During an inspection of the site on August 10, 2011, and documented in
19 Inspection Report number I1-1134771 Inspector Steve Dolan, for the CALRECYCLE Tire
20 Enforcement-South Branch observed 2,660 waste tires onsite, in violation of PRC section
21 42834 and 14 CCR section 18420.

22 14. On September 2, 2011, Inspector Payan conducted another audit of the Manifest
23 Forms submitted to CALRECYCLE between June 1, 2011 and August 10, 2011, by
24 RESPONDENT. This audit revealed that the operator transported more than 500 waste and
25 used tires to the site on at least twenty-nine (29) more occasions, each time creating and
26 delivering waste and used tires to an unpermitted WTF, in violation of PRC section 42851(b)
27 and 14 CCR section 18460.2(f). In Table 2 below are those shipments.

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Table 2

Comprehensive Trip Log	Load Date	Hauler Name	Delivery PTE	Facility Name
4251223-B	06/01/2011	Lunas Construction	1380	Lunas Construction - Newhall site
4182043-B	06/01/2011	Lunas Construction	1280	Lunas Construction - Newhall site
4251386-B	06/08/2011	Lunas Construction	1420	Lunas Construction - Newhall site
4251393-C	06/10/2011	Lunas Construction	655	Lunas Construction - Newhall site
4251376-C	06/11/2011	Lunas Construction	858	Lunas Construction - Newhall site
4233804-C	06/14/2011	Lunas Construction	706	Lunas Construction - Newhall site
4251227-C	06/16/2011	Lunas Construction	1314	Lunas Construction - Newhall site
4251230-B	06/17/2011	Lunas Construction	1298	Lunas Construction - Newhall site
4251229-B	06/17/2011	Lunas Construction	1171	Lunas Construction - Newhall site
4251369-B	06/17/2011	Lunas Construction	1461	Lunas Construction - Newhall site
4251303-B	06/24/2011	Lunas Construction	1393	Lunas Construction - Newhall site
4408041-C	06/27/2011	Lunas Construction	572	Lunas Construction - Newhall site

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					Lunas Construction - Newhall site
4408009-B	07/01/2011	Lunas Construction	1520		Lunas Construction - Newhall site
4408027-C	07/01/2011	Lunas Construction	527		Lunas Construction - Newhall site
4407990-B	07/11/2011	Lunas Construction	1443		Lunas Construction - Newhall site
4251224-B	07/14/2011	Lunas Construction	1627		Lunas Construction - Newhall site
4407978-C	07/15/2011	Lunas Construction	658		Lunas Construction - Newhall site
4407968-C	07/18/2011	Lunas Construction	764		Lunas Construction - Newhall site
4251233-B	07/19/2011	Lunas Construction	1558		Lunas Construction - Newhall site
4251234-B	07/19/2011	Lunas Construction	1357		Lunas Construction - Newhall site
4408098-B	07/21/2011	Lunas Construction	1439		Lunas Construction - Newhall site
4408056-C	07/26/2011	Lunas Construction	694		Lunas Construction - Newhall site
4407996-C	07/29/2011	Lunas Construction	699		Lunas Construction - Newhall site
4408065-A	07/30/2011	Lunas Construction	1000		Lunas Construction - Newhall site
4408131-B	08/02/2011	Lunas Construction	4800		Lunas Construction - Newhall site

1					Lunas Construction –
2	4408161-B	08/03/2011	Lunas Construction	1487	Newhall site
3					Lunas Construction –
4	4408159-B	08/03/2011	Lunas Construction	4800	Newhall site
5					Lunas Construction –
6	4408156-C	08/03/2011	Lunas Construction	1430	Newhall site
7					Lunas Construction –
8	4251250-B	08/10/2011	Lunas Construction	1289	Newhall site
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10 15. On September 13, 2011, Mr. Payan conducted a follow-up audit of the Manifest
 11 Forms submitted to CALRECYCLE between June 1, 2011 and June 30, 2011, by
 12 RESPONDENT, to review RESPONDENT's compliance with the requirements for filling out
 13 and submitting a Manifest Form in accordance with PRC section 42961.5 and 14 CCR
 14 sections 18459 and 18460.2. The audit revealed that the operator submitted Manifest Forms
 15 that failed to meet the requirements set forth in 14 CCR sections 18459 and 18460.2, as
 16 shown in Table 3 below.

17 **Table 3**

18 CTL Receipt	Violation	Date of Violation
19 Number		
20 4251318 (Header)	Incorrect decal number	June 4, 2011
21 4251318-C	Missing pickup/delivery, load date, load 22 type, load amount, Facility TPID, Facility 23 name and business address	
24 4251387-A	Missing Facility TPID	June 7, 2011
25 4233806-B	Incorrect Facility TPID	June 11, 2011

4251321-B	Incorrect Facility TPID	June 11, 2011
4251245-A	Incorrect Facility TPID	June 14, 2011
4251245-B	Missing load type	
4251358-B	Incorrect Facility TPID	June 22, 2011
4251341-B	Missing pickup/delivery	June 27, 2011

16. On or about January 25, 2012, Keith Cambridge, Acting Section Manager for CALRECYCLE, performed an audit of Manifest Forms submitted to CALRECYCLE from RESPONDENT for the time period from August 11, 2011 through December 29, 2011. Mr. Cambridge discovered that on 38 separate occasions RESPONDENT transported 500 or more waste or used tires to the site, thereby creating and delivering to an unpermitted facility in violation of PRC section 42951(b) and 14 CCR section 14 CCR section 18460.2. The following Table 4 lists those violations.

Table 4

CTL Form Number	Load Date	Hauler Name	Deliveries (PTEs)	Facility Name
4408100-B	08/11/2011	Lunas Construction Clean-Up, Inc.	1484	Lunas Construction Clean-Up, Inc.
4251266-B	08/17/2011	Lunas Construction Clean-Up, Inc.	900	Lunas Construction Clean-Up, Inc.
4408223-B	08/18/2011	Lunas Construction Clean-Up, Inc.	1572	Lunas Construction Clean-Up, Inc.

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4408102-C	08/18/2011	Lunas Construction Clean-Up, Inc.	524	Lunas Construction Clean- Up, Inc.
4408284-A	08/19/2011	Lunas Construction Clean-Up, Inc.	2546	Lunas Construction Clean- Up, Inc.
4408107-C	08/19/2011	Lunas Construction Clean-Up, Inc.	531	Lunas Construction Clean- Up, Inc.
4251226-B	08/20/2011	Lunas Construction Clean-Up, Inc.	2000	Lunas Construction Clean- Up, Inc.
4251269-B	08/24/2011	Lunas Construction Clean-Up, Inc.	852.5	Lunas Construction Clean- Up, Inc.
4408249-C	08/25/2011	Lunas Construction Clean-Up, Inc.	551	Lunas Construction Clean- Up, Inc.
4408289-B	08/26/2011	Lunas Construction Clean-Up, Inc.	2331	Lunas Construction Clean- Up, Inc.
4408289-B	08/26/2011	Lunas Construction Clean-Up, Inc.	2331	Lunas Construction Clean- Up, Inc.
4251257-B	08/28/2011	Lunas Construction Clean-Up, Inc.	830	Lunas Construction Clean- Up, Inc.
4408205-B	08/29/2011	Lunas Construction Clean-Up, Inc.	1486	Lunas Construction Clean- Up, Inc.
4251271-B	08/29/2011	Lunas Construction Clean-Up, Inc.	1405	Lunas Construction Clean- Up, Inc.
4251259-B	08/30/2011	Lunas Construction Clean-Up, Inc.	1213	Lunas Construction Clean- Up, Inc.
4251300-B	09/01/2011	Lunas Construction Clean-Up, Inc.	1605	Lunas Construction Clean- Up, Inc.

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4408510-A	09/08/2011	Lunas Construction Clean-Up, Inc.	640	Lunas Construction Clean- Up, Inc.
4408240-C	09/08/2011	Lunas Construction Clean-Up, Inc.	534	Lunas Construction Clean- Up, Inc.
4251268-B	09/10/2011	Lunas Construction Clean-Up, Inc.	790	Lunas Construction Clean- Up, Inc.
4408517-C	09/10/2011	Lunas Construction Clean-Up, Inc.	642	Lunas Construction Clean- Up, Inc.
4251297-B	09/13/2011	Lunas Construction Clean-Up, Inc.	1000	Lunas Construction Clean- Up, Inc.
4408587-C	09/13/2011	Lunas Construction Clean-Up, Inc.	565	Lunas Construction Clean- Up, Inc.
4408559-C	09/21/2011	Lunas Construction Clean-Up, Inc.	604	Lunas Construction Clean- Up, Inc.
4408563-C	10/03/2011	Lunas Construction Clean-Up, Inc.	1228	Lunas Construction Clean- Up, Inc.
4408696-C	10/06/2011	Lunas Construction Clean-Up, Inc.	644	Lunas Construction Clean- Up, Inc.
4408592-C	10/07/2011	Lunas Construction Clean-Up, Inc.	715	Lunas Construction Clean- Up, Inc.
4408641-C	10/12/2011	Lunas Construction Clean-Up, Inc.	573	Lunas Construction Clean- Up, Inc.
4408650-B	10/15/2011	Lunas Construction Clean-Up, Inc.	2250	Lunas Construction Clean- Up, Inc.
4408664-A	10/22/2011	Lunas Construction Clean-Up, Inc.	699	Lunas Construction Clean- Up, Inc.

1			Lunas Construction		Lunas Construction Clean-
2	4251256-B	10/27/2011	Clean-Up, Inc.	1342	Up, Inc.
3			Lunas Construction		Lunas Construction Clean-
4	4408747-C	11/08/2011	Clean-Up, Inc.	518	Up, Inc.
5			Lunas Construction		Lunas Construction Clean-
6	4408738-B	11/10/2011	Clean-Up, Inc.	1027	Up, Inc.
7			Lunas Construction		Lunas Construction Clean-
8	4408818-C	11/15/2011	Clean-Up, Inc.	566	Up, Inc.
9			Lunas Construction		Lunas Construction Clean-
10	4251262-B	11/16/2011	Clean-Up, Inc.	1540	Up, Inc.
11			Lunas Construction		Lunas Construction Clean-
12	4182031-B	12/06/2011	Clean-Up, Inc.	1805	Up, Inc.
13			Lunas Construction		Lunas Construction Clean-
14	4251296-B	12/09/2011	Clean-Up, Inc.	1061	Up, Inc.
15			Lunas Construction		Lunas Construction Clean-
16	4408913-C	12/28/2011	Clean-Up, Inc.	507	Up, Inc.
17			Lunas Construction		Lunas Construction Clean-
18	4467055-B	12/29/2011	Clean-Up, Inc.	1145	Up, Inc.

CONCLUSIONS OF LAW

17. RESPONDENT violated PRC 42951 (b) and 14 CCR section 18460.2(f) on at least 102 separate occasions, by transporting waste tires to a facility that was not permitted, excluded, exempted, or otherwise authorized by CALRECYCLE, by statute, or by regulation, to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

18. RESPONDENT violated PRC section 42961.5 and 14 CCR sections 18459 and 18460.2(b) on at least seven (7) separate occasions by submitting Manifest Forms with errors or omissions.

ORDER

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

(a) Pursuant to the terms and conditions of the Stipulation, and subject to the limitations hereunder, RESPONDENT stipulates to an administrative penalty against RESPONDENT and in favor of CALRECYCLE in the sum of \$105,500.00 for the violations set forth in the Stipulation. Payment of the penalty shall be satisfied in the following manner:

i) RESPONDENT shall pay \$35,000.00 to CALRECYCLE in accordance with the following:

1. RESPONDENT shall pay to CALRECYCLE the sum of \$400.00 each month with the first payment due on October 1, 2012, for the duration of the abeyance period.

a. All payments shall be made to CALRECYCLE, Attn: Esther Gallegos, at P. O. Box 4025, Sacramento, CA 95812-4025, or to such other person and/or place as CALRECYCLE or its agent may from time to time designate in writing. Payments may be remitted in the form of check, cashier's check, money order, cash, or credit card.

b. If any payment by RESPONDENT hereunder is not remitted by RESPONDENT to said addressee by the due date, or a date later issued by CALRECYCLE, and if RESPONDENT fails to cure the missed payment(s) within twenty (20) days of said missed payment, RESPONDENT shall be found in partial default of the stipulation.

2. RESPONDENT shall pay off the portion of the \$35,000.00 amount not covered by the \$400 monthly installments by either of the following

a. Monetary payments made in accordance with paragraph 19(a)(i)(1) above;
or

b. Providing Services to a local public entity in California by cleaning up solid waste at a reasonably discounted rate. RESPONDENT shall follow the

1 required procedures set forth by the local public entity or California state
2 contracting laws in bidding on or contracting for said clean up.

- 3 i. RESPONDENT shall provide CALRECYCLE with
4 documentation of any bid offered to the public entity and the
5 corresponding contract signed by both RESPONDENT and the
6 public entity.
- 7 ii. CALRECYCLE shall review the bid and the contract to
8 determine that the discounted rate was reasonable in
9 comparison to the tonnage of solid waste cleaned up or the
10 hours worked by RESPONDENT
- 11 iii. If CALRECYCLE determines that the discounted rate was
12 reasonable, the amount discounted, or another amount
13 determined by CALRECYCLE, shall be credited toward the
14 \$35,000.00 still owed by RESPONDENT under the Stipulation.
15 Up to \$11,000.00, but no more than \$11,000.00, worth of
16 services performed by RESPONDENT shall be credited toward
17 the \$35,000.00 amount owed to CALRECYCLE.
- 18 iv. When RESPONDENT places a bid to provide a clean-up
19 service to fulfill the terms of the Stipulation, RESPONDENT may
20 state that the discounted price is offered in order to fulfill a
21 settlement. However, RESPONDENT shall not state, imply, or
22 otherwise indicate that it is discounting the price to fulfill an
23 obligation or settlement owed to CALRECYCLE, nor shall
24 RESPONDENT state, imply, or otherwise indicate that it has
25 any connection, of any kind, to CALRECYCLE

26 3. Failure to pay the full \$35,000.00 prior to the expiration of the abeyance
27 period shall constitute a full default of the Stipulation.

- 28 i) \$ 70,500.00 of this administrative penalty shall be held for an abeyance

1 period of at least two and a half years but no more than five years based on the terms set forth
2 below. The stayed penalty shall be deemed terminated and shall not be paid by
3 RESPONDENT to CALRECYCLE following the expiration of the abeyance period absent a
4 default as described. At the end of two and a half years following the issuance of the
5 Stipulation's corresponding Decision, and contingent upon RESPONDENT not having
6 defaulted on either a full-default or the manifesting error rate term of the Stipulation, the
7 abeyance period shall expire upon RESPONDENT's final payment of the \$35,000.00 owed.

8 (b) RESPONDENT shall not open or operate a WTF at which any number of waste,
9 used, or new tires are stored, accumulated, or stockpiled, in California during the abeyance
10 period. Failure to comply with this term shall constitute a full default of the Stipulation.

11 (c) If RESPONDENT opens or operates a WTF in violation of paragraph 19(b)
12 above, CALRECYCLE shall inspect said facility at a frequency determined by CALRECYCLE
13 for the remainder of the abeyance period, or until, no waste, used or new tires remain onsite
14 and RESPONDENT has completely removed itself from the location, whichever is first. If the
15 violation continues beyond the abeyance period CALRECYCLE shall continue to inspect the
16 WTF at a frequency determined by CALRECYCLE until the violation ceases. RESPONDENT
17 shall be responsible for reimbursing CALRECYCLE for the cost of those inspections, in
18 accordance with the inspection and reimbursement terms set forth in subparagraph (d) of the
19 Stipulation below.

20 (d) RESPONDENT shall grant CALRECYCLE inspectors, or any agent designated
21 by CALRECYCLE, access to the site for the purpose of conducting the additional inspections
22 described in subparagraph (c) above, and RESPONDENT shall reimburse CALRECYCLE for
23 the cost of these additional inspections (including costs for the time spent preparing for the
24 inspection, traveling to the site, and preparing and writing any Inspection Report). Additionally,
25 after compliance has again been regained, CALRECYCLE shall inspect the site twice a year
26 for the remainder of the abeyance period, and RESPONDENT shall reimburse CALRECYCLE
27 for the costs of these additional inspections (including costs for the time spent preparing for the
28 inspection, traveling to the site, and preparing and writing any Inspection Report).

1 i. Failure to grant access to inspectors or agents designated by
2 CALRECYCLE, or failure to reimburse CALRECYCLE for the costs of an additional inspection
3 within 30 days of an invoice shall be deemed a default of the Stipulation.

4 ii. The cost of the additional inspections shall be billed at the rate approved
5 by CALRECYCLE's accounting and budgets offices for enforcement agent inspections for that
6 fiscal year.

7 (e) RESPONDENT shall not haul waste, used, or new tires within the State of
8 California for a period of one month, beginning on October 1, 2012, except in the following
9 instances:

10 i. RESPONDENT may haul waste, used or new tires from military bases
11 which RESPONDENT is currently contractually obligated to remove. Within 30 days of the
12 issuance of the corresponding Decision, RESPONDENT shall provide CALRECYCLE with a
13 list of those specific military bases in writing. All waste, used or new tires hauled pursuant to
14 this subparagraph shall be manifested in accordance with PRC section 42965.1 and 14 CCR
15 section 18450 et seq.

16 ii. RESPONDENT may haul waste tires that are commingled with solid waste
17 and which constitute only an incidental part of the load of solid waste being hauled.

18 iii. RESPONDENT may haul waste tires to Mitsubishi Cement Corp
19 (Mitsubishi).

20 iv. RESPONDENT may subcontract with another waste and used tire hauler
21 possessing a valid waste and used tire hauler registration from CALRECYCLE to fulfill its
22 financial obligations if necessary under paragraph 19(a) above.

23 v. Failure to comply with this subparagraph (e) shall constitute a full default
24 of the Stipulation.

25 (f) For a one-year period following the issuance of the corresponding Decision,
26 RESPONDENT shall not pick-up from or deliver waste, used, or new tires to any new
27 customers within the State of California. For that same one-year period, but beginning on
28 November 1, 2012, RESPONDENT may pick-up from or deliver waste, used, or new tires to its

1 existing customers. Failure to comply with this term shall constitute a full default of this
2 Stipulation.

3 (g) Within 30 days of the issuance of the corresponding Decision, RESPONDENT
4 shall provide CALRECYCLE with a list of existing customers in the State of California.
5 RESPONDENT shall update the list within 30 days of the acquisition of new customers or the
6 removal of prior existing customers. Failure to comply with this term shall constitute a full
7 default of the Stipulation.

8 (h) Within the first five days of each calendar month, RESPONDENT shall provide
9 CALRECYCLE with a log of waste, used, or new tires picked up from or delivered to any
10 existing or new customer in the state of California. The log shall include the total number of
11 waste, used, or new tires picked up from customers in the state of California, the total number
12 of waste, used, or new tires delivered to customers in the state of California, the names of
13 customers from which or to which waste, used, or new tire were delivered or picked up, and
14 the amount of waste, used, or new tires and their destination for any loads shipped through
15 California that did not originate from or end at a location in California for the previous month.
16 Failure to comply with this term shall constitute a full default of the Stipulation.

17 (i) RESPONDENT shall maintain a manifest error rate of 5% or less for the
18 abeyance period.

19 (j) RESPONDENT shall comply with all other laws related to waste tire haulers set
20 forth in PRC 42950 et seq., and Title 14 of the CCR.

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

1 determination, following service of the Supplemental Decision, RESPONDENT may file a writ
2 challenging that determination in Superior Court.


3 21 Unless otherwise specified in the subsections above, failure to comply with any
4 of the above terms shall constitute a partial default of the Stipulation and the abeyance amount
5 determined by CALRECYCLE shall become immediately due and payable by RESPONDENT.

6 (a) CALRECYCLE shall base any abeyance amount due on the penalty amounts set
7 forth in PRC section 42962, and 14 CCR section 18464, taking into account the nature,
8 circumstances, extent and gravity of the partial default.

9 (b) If RESPONDENT is ordered to pay a partial default fine and fails to do so within
10 30 days, the failure shall constitute a full default and the remaining amount of \$105,000.00,
11 less any amount already paid to CALRECYCLE, shall become immediately due and payable.

12 (c) If RESPONDENT is found in default of a term which designates a full default as
13 its consequence, RESPONDENT shall be ordered to immediately pay the full penalty amount
14 of \$105,000.00 dollars less any amount already paid to CALRECYCLE.

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16 Dated this 28 day of September, 2012.

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19 _____
20 MARK DE BIE
21 Deputy Director
22 DEPARTMENT OF RESOURCES,
23 RECYCLING AND RECOVERY
24 (CALRECYCLE)
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