

1 ELLIOT BLOCK SBN 116999  
Chief Counsel  
2 HEATHER L. HUNT SBN 225861  
3 MARTHA PEREZ SBN 271766  
Attorneys for Complainant  
4 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY  
1001 I Street, 24<sup>th</sup> Floor  
5 P. O. Box 4025  
6 Sacramento, CA 95812-4025  
Telephone: (916) 341- 6494  
7 Facsimile: (916) 319-7804

8  
9 **STATE OF CALIFORNIA**

10 **DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

11 **IN THE MATTER OF:**

12  
13 **Golden By-Products, Inc.,**  
14 **PROPERTY OWNER AND OPERATOR**  
15  
16 **RESPONDENT.**

17 **TPID NO.: 1003314**  
18

**Case No. IH-14-008-TIR**

**NOTICE OF SETTLEMENT**  
**(Gov. Code § 11415.60)**

**AGENCY NO. 2014-011166-ADC**

19 **TO THE CALRECYCLE LEGAL OFFICE, HEARING OFFICER, AND ALL PARTIES:**

20 PLEASE TAKE NOTICE that this case has been settled. Complainant, California Department  
21 of Resources Recycling and Recovery, and Respondent, Golden By-Products, Inc., have  
22 signed a final written agreement resolving this case.

23 A true and correct copy of the signed Stipulated Settlement Agreement (Stipulation for  
24 Waste Tire Storage Administrative Penalties) and Final Agency Decision (Administrative  
25 Decision Pursuant to Stipulation For Waste Tire Storage Administrative Penalties) are attached  
26 hereto and incorporated by reference as Exhibit 1.

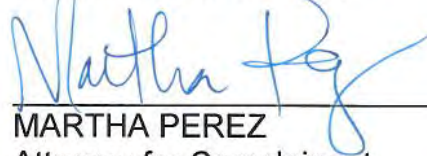
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1 The Department of Resources Recycling and Recovery hereby requests that the  
2 CalRecycle Legal Office vacate all hearing dates and take the entire case off calendar.

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4 Dated this 13<sup>th</sup> day of October, 2014.

5 Respectfully submitted,

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MARTHA PEREZ  
9 Attorney for Complainant  
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# EXHIBIT 1

1 ELLIOT BLOCK SBN 116999  
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9 **STATE OF CALIFORNIA**

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11 **IN THE MATTER OF:**

12 **Golden By-Products, Inc.,**  
13 **PROPERTY OWNER AND OPERATOR**

14  
15 **RESPONDENT.**

16 **TPID NO.: 1003314**

**Case No. IH14-008-TIR**

**STIPULATION FOR  
WASTE TIRE STORAGE  
ADMINISTRATIVE PENALTIES**

**AGENCY NO. 2014-011166-ADC**

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18  
19 **INTRODUCTION AND PROCEDURAL HISTORY**

20 The California Integrated Waste Management Board ("CIWMB") is now the  
21 Department of Resources Recycling and Recovery (hereafter, "CalRecycle").  
22 CalRecycle succeeded to the CIWMB's authority on January 1, 2010, pursuant to Public  
23 Resources Code (Pub. Resources Code) section 40401(a)(1). The parties to this  
24 **STIPULATION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES**  
25 (hereafter, "Stipulation") are CalRecycle and Golden By-Products, Inc. (hereafter,  
26 "Golden By-Products").

27 On June 27, 2014, an **ADMINISTRATIVE COMPLAINT FOR WASTE TIRE**  
28 **STORAGE PENALTIES** (hereafter, "Administrative Complaint") seeking \$730,000.00

1 was issued against Respondent, Golden By-Products. On July 10, 2014, Stephen  
2 Krauss, representative for Respondent, Golden By-Products, filed a REQUEST FOR  
3 HEARING/NOTICE OF DEFENSE with the CalRecycle Legal Office. An informal  
4 hearing was scheduled for September 10, 11 and 12, 2014, at 10:00 a.m. at  
5 CalRecycle's offices, located at 801 K Street, 19<sup>th</sup> Floor, Room 1919, Sacramento,  
6 California 95814. On August 27, 2014, a FIRST AMENDED ADMINISTRATIVE  
7 COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Amended  
8 Complaint") seeking \$965,000.00 was issued against Repondent, Golden By-Products.

9 From the time period beginning on or around August 1, 2014 and continuing  
10 thereafter, CalRecycle and Golden By-Products (hereafter, referred to collectively as  
11 "the Parties") took part in discussions regarding possible settlement of this matter. In  
12 order to continue settlement discussions in this matter, on September 4, 2014, the  
13 Parties submitted a JOINT REQUEST FOR CONTINUANCE OF HEARING DATE  
14 requesting that the September 10, 11, and 12, 2014 hearing be continued to October  
15 15, 16, and 17, 2014. On September 4, 2014, Hearing Officer Thomas W. Vallance,  
16 issued an ORDER GRANTING CONTINUANCE AND NOTICE OF HEARING  
17 continuing the hearing until October 15, 16, and 17, 2014, at 10:00 a.m., CalRecycle,  
18 801 K Street, Room 1919 (DOR Training Room), Sacramento, California 95814.

19 In order to avoid the extensive time and costs of litigation in this matter, the  
20 Parties desire to settle all claims and disputes between them. The Parties understand,  
21 acknowledge and agree to the facts and terms of this Stipulation, and hereby submit  
22 this Stipulation as final resolution of this matter.

### 23 FACTUAL BACKGROUND

24 1. Golden By-Products, Inc., Tire Program Identification ("TPID") Number  
25 1003314, is a major permitted waste tire facility located at 13000 Newport Dr., Ballico,  
26 California, 95303, Assessor's Parcel Number 041-120-019 (hereafter, referred to as "the  
27 Site").

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1           2.     Golden By-Products is a "Major waste tire facility" as that term is defined  
2 in Pub. Resources Code section 42808(b).

3           3.     On July 6, 2009, CALRECYCLE issued Golden By-Products a new waste  
4 tire facility permit for a "Major Waste Tire Facility," (hereafter, referred to as "Major  
5 WTFP") authorizing a maximum permitted capacity of 1,500 tons of whole tires and  
6 primary shreds (altered waste tires larger than 2 inches in diameter) (150,000  
7 passenger tire equivalents (PTE<sup>1</sup>)), and 8,500 tons of other material, as that material is  
8 described in the Major WTFP.

9           4.     From November 6, 2013, and until the present, Golden By-Products has  
10 stored in excess of 150,000 PTE of whole waste tires and/or altered waste tires on the  
11 Site.

12          5.     On November 6, 2013, at 1:30 pm, Merced County Environmental Health  
13 inspectors Esperanza Cabrera-Clark, Paul Wrighton, and supervisor Vickie Jones,  
14 along with CalRecycle inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean  
15 Whalen, and Mathew Vipond performed a routine inspection of the Site to ensure  
16 compliance with applicable waste tire storage and disposal standards and the terms and  
17 conditions of Golden By-Product's Major WTFP. Also in attendance during this  
18 inspection was Merced County Fire Marshal, Hank Moore, who performed a separate  
19 fire safety inspection of the site.<sup>2</sup> Inspectors were met by Steve Krauss of Golden By-  
20 Products, and Karen and Brett Barstow, owners of Golden By-Products.

21           During this inspection, Merced County and CalRecycle inspectors broke off into  
22 respective groups to measure indoor/outdoor tire storage areas to determine  
23 compliance with the Major WTFP capacity limits, other terms and conditions of the  
24 Major WTFP, and state minimum standards. As documented in Inspection Report #I1-  
25 1206501, Merced County and CalRecycle inspectors determined that a total whole  
26

27 <sup>1</sup> "Passenger Tire Equivalents" (PTE) is defined as, "the total weight of altered waste tires, in pounds,  
divided by 20 pounds." (Cal. Code regs. tit. 14, section 17225.770.)

28 <sup>2</sup> On March 18, 2014, Merced County Fire Marshal, Hank Moore, issued RESPONDENT a Notice of  
Violation for the violations found during the fire inspection site visit on November 6, 2013.

1 waste tire and altered waste tire (greater than two inches in diameter) count of  
2 approximately 466,868 PTE were being stored on the Site. Golden By-Products was  
3 issued a Notice of Violation for violations specific to its Major WTFP capacity limits,  
4 storage of waste tires outdoors, and other terms and conditions of its Major WTFP, and  
5 was provided a compliance deadline date of March 3, 2014.

6         6.       On March 5, 2014, Merced County inspector Esperanza Cabrera-Clark  
7 and CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Jean Whalen, Mathew  
8 Vipond, and Dustin Schiavo returned to the Site to perform a re-inspection of the Site.  
9 Also in attendance during this inspection were Margie Comotto and Kevin Taylor, of  
10 CalRecycle's permitting division. Inspectors were met by Steve Krauss of Golden By-  
11 Products. During this inspection, Merced County and CalRecycle inspectors broke off  
12 into respective groups to measure indoor/outdoor tire storage areas to determine  
13 compliance with the Major WTFP capacity limits, other terms and conditions of the  
14 Major WTFP, and state minimum standards.

15         As documented in Inspection Report #IW-1010048, Merced County and  
16 CALRECYCLE inspectors determined that a total whole waste tire and altered waste  
17 tire (greater than two inches in diameter) count of approximately 565,514 PTE were  
18 being stored on the Site. Golden By-Products was cited for violations specific to its  
19 Major WTFP capacity limits, storage of waste tires outdoors, and other terms and  
20 conditions of its Major WTFP. Violations noted during the November 6, 2013 inspection  
21 were still outstanding. Inspection Report #IW-1010048 was mailed to Golden By-  
22 Products first-class United States Postal Service (USPS) certified mail on March 14,  
23 2014.

24         7.       On March 14, 2014, CalRecycle issued Cleanup and Abatement Order  
25 (hereafter, referred to as "CAO") 2014-011034-CAO to Golden By-Products for violating  
26 waste tire storage laws and regulations, and for capacity violations related to Golden  
27 By-Products' Major WTFP. Golden By-Products was served with the CAO on or around  
28 March 17-18, 2014. The CAO ordered Golden By-Products to, "*remove all waste tires*

1 *in excess of 1,500 tons or 150,000 passenger tire equivalents from the premises within*  
2 *30 days from the date of service of this Cleanup and Abatement Order (CAO)."*

3 (Emphasis added.) The CAO also ordered Golden By-Products to do the following,  
4 "[b]eginning March 24, 2014, maintain daily incoming and outgoing tonnage records for  
5 all waste/PTE tires until you obtain compliance with section one [of the CAO] above . . .  
6 submit [above records] to Geralda Stryker of my [CALRECYCLE] staff . . . by close of  
7 business on Friday of each week for the duration."

8 8. On April 29, 2014, Merced County inspector Esperanza Cabrera-Clark  
9 and CALRECYCLE Inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean  
10 Whalen, Mathew Vipond, Dustin Schiavo, and Nikki Castagneto returned to the Site to  
11 perform a follow-up inspection to determine compliance with the CAO. Also in  
12 attendance during this inspection was Geralda Stryker, supervisor, CalRecycle Waste  
13 Tire Compliance – Central Unit. Inspectors were met by Karen Barstow, owner of  
14 Golden By-Products, and Steve Krauss of Golden By-Products. As in previous  
15 inspections, Merced County and CalRecycle inspectors broke off into respective groups  
16 to measure indoor/outdoor tire storage areas to determine compliance with the Major  
17 WTFP capacity limits, other terms and conditions of the Major WTFP, and state  
18 minimum standards. As documented in Inspection Report #IW-1011032, Merced  
19 County and CalRecycle inspectors determined that a total whole waste tire and altered  
20 waste tire (greater than two inches in diameter) count of approximately 946,400 PTE  
21 were being stored on the Site.

22 Golden By-Products was in violation of the CAO and was cited for violations  
23 specific to its Major WTFP capacity limits, storage of waste tires outdoors, vector control  
24 measures, and other terms and conditions of its Major WTFP. Report #IW-1011032 was  
25 sent electronic mail to Steve Krauss of Golden By-Products on May 12, 2014, and  
26 USPS first-class mail on May 13, 2014.

27 9. On June 4, 2014, Merced County Inspector Esperanza Cabrera-Clark and  
28 CalRecycle Inspectors Robert Baumann, Mathew Vipond, Dustin Schiavo, Peder Kryski,



1 Jean Whalen, Billy Yos returned to the Site to determine compliance with the CAO.  
2 Also in attendance during this inspection was Geralda Stryker, supervisor, CalRecycle  
3 Waste Tire Compliance – Central Unit. Inspectors were met by Karen Barstow, owner of  
4 Golden By-Products; and Steve Krauss of Golden By-Products. As in previous  
5 inspections, Merced County and CalRecycle inspectors broke off into respective groups  
6 to measure indoor/outdoor tire storage areas to determine compliance with the Major  
7 WTFP capacity limits. As documented in Inspection Report #IW-1011790, Merced  
8 County and CALRECYCLE inspectors determined that a total whole waste tire and  
9 altered waste tire (greater than two inches in diameter) count of approximately 614,697  
10 PTE were being stored on the Site. Golden By-Products was in violation of the CAO and  
11 was cited for violations specific to its Major WTFP capacity limits, storage of waste tires  
12 outdoors, and other terms and conditions of its Major WTFP. Inspection Report #IW-  
13 1011790 was sent via electronic mail to Steve Krauss, Brett Barstow, and Karen  
14 Barstow of Golden By-Products on June 17, 2014, and via first-class USPS mail on  
15 June 25, 2014.

16 10. On June 24, 2014, Merced County inspector Esperanza Cabrera-Clark  
17 and CalRecycle Inspectors Robert Baumann, Peder Kryski, Jean Whalen, Mathew  
18 Vipond, Nikki Castagneto, Mary LeClaire, Billy Yos, and Nai Teurn returned to the Site  
19 to conduct a pre-permit inspection and determine compliance with the CAO. Also in  
20 attendance during this inspection was Merced County Fire Marshal, Hank Moore, who  
21 performed a separate fire safety inspection of the site. Inspectors were met by Brett  
22 Barstow, co-owner of Golden By-Products. As in previous inspections, Merced County  
23 and CalRecycle inspectors broke off into respective groups to measure indoor/outdoor  
24 tire storage areas to determine compliance with the Major WTFP capacity limits, other  
25 terms and conditions of the Major WTFP, and state minimum standards.

26 As documented in Inspection Report #IW-1011953, Merced County and  
27 CalRecycle inspectors determined that a total whole waste tire and altered waste tire  
28 (greater than two inches in diameter) count of approximately 686,027 PTE were being

1 stored on the Site. Golden By-Products was in violation of the CAO and was cited for  
2 violations specific to its Major WTFP capacity limits, storage of waste tires outdoors, fire  
3 prevention measures, and other terms and conditions of its Major WTFP. Inspection  
4 Report #IW-1011953 was sent electronic mail and first-class USPS mail to Steve  
5 Krauss of Golden By-Products on June 27, 2014.

6 11. Golden By-Products' Major WTFP expired on July 6, 2014.

7 12. On July 17, 2014, Merced County inspector Esperanza Cabrera-Clark and  
8 CALRECYCLE Inspectors Robert Baumann, Jean Whalen, Mathew Vipond, Nikki  
9 Castagneto, Dustin Schiavo, Billy Yos, and Nai Teurn returned to the Site to perform an  
10 inspection to determine compliance with state minimum standards and waste tires laws  
11 as set forth in Chapter 16 of the Pub. Resources Code. Also in attendance during this  
12 inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance –  
13 Central Unit. Inspectors were met by Amber Barstow and Stephen Krauss of Golden  
14 By-Products. As in previous inspections, Merced County and CalRecycle inspectors  
15 broke off into respective groups to measure indoor/outdoor tire storage areas.

16 As documented in Inspection Report #IW-1012530, Merced County and  
17 CalRecycle inspectors determined that a total whole waste tire and altered waste tire  
18 (greater than ¼ inches in diameter) count of approximately 611,860 PTE were being  
19 stored on the Site. Golden By-Products was issued a Notice of Violation for violations  
20 specific to storage of waste tires outdoors, fire prevention measures, improper tire pile  
21 storage, insufficient separation between tire piles and flammable materials, surface  
22 water drainage issues, and failure to remove tires from rims upon arrival at the facility.  
23 Inspection Report #IW-1012530 was sent USPS first-class mail on August 15, 2014,  
24 and electronic mail to Karen Barstow of Golden By-Products on August 19, 2014.

25 13. On August 15, 2014, CalRecycle issued a subsequent Cleanup and  
26 Abatement Order 2014-011036-CAO (hereafter, referred to as "August 2014 CAO") to  
27 Golden By-Products for violating waste tire storage laws and regulations, including but  
28 not limited to, violations of state minimum standards and storing 5,000 or more waste

1 tires on the site without a valid Major waste tire facility permit. Golden By-Products was  
2 served with the CAO on or around August 19, 2014. The August 2014 CAO ordered  
3 Golden By-Products to, "*reduce and maintain the number of waste tires onsite to 0*  
4 *(zero), in accordance with the following: (1) Remove all waste tires from the premises*  
5 *immediately, in accordance with PUB. RESOURCES CODE section 42845(a)(2). (2) At*  
6 *no time may you accept additional waste tires at this site, . . . for as long as this site*  
7 *remains in violation.*" (Emphasis added.)

### 8 STIPULATED ORDER

9 The Parties acknowledge and agree to the following terms in full and complete  
10 settlement of this matter:

11 1. Golden By-Products shall not accept any waste tires at the Site, until all of  
12 the following conditions are met:

13 a. CalRecycle inspectors perform an inspection of the Site and CalRecycle  
14 provides written notice to Golden By-Products verifying the following:

15 i. The facility is storing less than 2,000 tons (200,000 PTE) of "whole  
16 waste tires" and less than 6,500 tons of "altered waste tires," as  
17 those terms are defined below;

18 ii. Whole waste tires at the Site are restricted to individual piles not  
19 exceeding 5,000 square feet of contiguous area. Piles do not  
20 exceed 50,000 cubic feet in volume nor 10 feet in height. Whole  
21 waste tires are separated from vegetation and other potentially  
22 flammable materials by no less than 40 feet.

23 b. CalRecycle provides written notice to Golden By-Products verifying the  
24 following:

25 i. Golden By-Products has provided acceptable written  
26 documentation to CalRecycle showing that Golden By-Products  
27 has made arrangements to take up to 500 tons (5,000 PTE) of  
28 waste tires per week, for 10 weeks, to landfills or other facilities

1 authorized to take waste tires. Written documentation includes, but  
2 is not limited to: (1) letter(s) from landfills or other facilities agreeing  
3 to accept waste tires, or (2) contract(s) from landfills or other  
4 facilities agreeing to accept waste tires.

5 2. A failure to comply with the requirements set forth in paragraph 1.a. and  
6 1.b. above will result in a partial default of this Stipulation and Golden By-Products must  
7 immediately cease accepting waste tires at the Site. In addition, Golden By-Products  
8 may not apply for a Major Waste Tire Facility Permit for three years from the effective  
9 date of the Administrative Decision issued pursuant to this Stipulation.

10 3. CalRecycle may revoke Golden By-Products' authorization to accept  
11 waste tires at the Site at any time, by providing written notice to Golden By-Products.

12 4. Beginning on or before November 17, 2014, Golden By-Products shall  
13 store no more than 2,000 tons (200,000 PTE) of whole waste tires and 6,500 tons of  
14 altered waste tires at the Site. Failure to comply with this term will result in an automatic  
15 partial default penalty of \$10,000 against Golden By-Products and in favor of  
16 CalRecycle.

17 5. Beginning on or before November 17, 2014, Golden By-Products shall  
18 comply with the whole waste tire storage requirements as specified above in paragraph  
19 1.a.ii. Failure to comply with this term will result in an automatic partial default penalty of  
20 \$25,000 against Golden By-Products and in favor of CalRecycle.

21 6. Beginning on or before December 2, 2014, Golden By-Products shall store  
22 no more than 1,000 tons (100,000 PTE) of whole waste tires and 6,500 tons of altered  
23 waste tires at the Site. Failure to comply with this term will result in an automatic partial  
24 default penalty of \$50,000 against Golden By-Products and in favor of CalRecycle.

25 7. Effective immediately, Golden By-Products shall contact CalRecycle's  
26 enforcement staff within 24 hours of any event resulting in substantial downtime at the  
27 Site, excluding routine maintenance. At minimum, Golden By-Products shall contact Bill  
28 Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at

1 Bill.Albert@CalRecycle.ca.gov.

2 8. Effective immediately, Golden By-Products shall contact CalRecycle's  
3 enforcement staff within 24 hours of any major accident or incident of fire at the Site. At  
4 minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement  
5 Section manager, at (916) 341-6430 and email at [Bill.Albert@CalRecycle.ca.gov](mailto:Bill.Albert@CalRecycle.ca.gov).

6 9. Golden By-Products agrees to continue providing weekly updates on daily  
7 incoming and outgoing tonnage records for all waste tires/PTE to CalRecycle, as  
8 ordered in the March 14, 2014 CAO (2014-011034-CAO).

9 10. On or before January 1, 2015, Golden By-Products shall apply for a major  
10 waste tire facility permit (hereafter, referred to as "Major WTFP") subject to the following  
11 conditions:

- 12 a. Golden By-Products will submit a Major WTFP application (hereafter,  
13 referred to as "permit application") to CalRecycle pursuant to the  
14 requirements set forth in Title 14 California Code of Regulations ("CCR"),  
15 Division 7, Chapter 6, Article 2 (Filing an Application) and Article 4 (Permit  
16 Application);
- 17 b. Golden By-Products will meet all state minimum standard requirements as  
18 outlined in Title 14 CCR, Division 7, Chapter 3, Article 5.5 (Waste Tire  
19 Storage and Disposal Standards) including but not limited to, an adequate  
20 water supply capable of delivering at least 2,000 gpm for a duration of at  
21 least three hours if the sum of altered plus whole waste tires exceeds  
22 10,000 PTE;
- 23 c. Golden By-Products will increase its financial assurance mechanisms in  
24 its permit application to at least \$160,000, with a "surety bond," as set  
25 forth in Title 14 CCR sections 18471(a)(7) and 18475, to ensure adequate  
26 financial ability to conduct closure activities of the Major Waste Tire  
27 Facility. If Golden By-Products is unable to secure a surety bond for  
28 \$160,000, Golden By-Products must submit to CalRecycle acceptable

1 written documentation showing inability to secure the \$160,000 surety  
2 bond. At all such times as Golden By-Products does not have a \$160,000  
3 surety bond, Golden By-Products must have an existing escrow account  
4 to cover the costs associated with closure activities of the Major Waste  
5 Tire Facility that are not covered by an existing surety bond. Escrow  
6 instructions must include the following provision: "Funds in the escrow  
7 account shall be released to the Department of Resources Recycling and  
8 Recovery (CalRecycle) upon notice of Golden By-Products, Inc.'s failure  
9 to conduct closure activities." Golden By-Products must secure the  
10 \$160,000 surety bond within six months from applying for the Major  
11 WTFP. A violation of this condition will result in a partial default.

- 12 d. CalRecycle will have 30 days to accept the permit application as  
13 complete, or reject the permit application.
- 14 e. CalRecycle may reject the permit application for any of the following:
- 15 i. Golden By-Products' failure to meet the requirements as specified  
16 above in paragraph 10.a., 10.b. and 10.c.
  - 17 ii. Golden By-Products' failure to meet any of the terms and conditions  
18 of this Stipulation.
  - 19 iii. Golden By-Products' failure to submit a permit application that  
20 reflects the Site's current operation.
  - 21 iv. Golden By-Products' failure to maintain whole waste tire storage  
22 limits at or below 1,000 tons (100,000 PTE) and 6,500 tons of  
23 altered waste tires.
- 24 f. If CalRecycle rejects the permit application, CalRecycle will notify Golden  
25 By-Products, in writing, enumerating the grounds for rejection. Golden By-  
26 Products will have 30 days to cure a rejected permit application. Failure to  
27 cure a rejected permit application within 30 days, will result in an  
28 automatic partial default penalty of \$2,500 against Golden By-Products,

1 and in favor of CalRecycle.

2 g. March 15, 2015 is the deadline for the permit application to be accepted  
3 by CalRecycle.

4 11. If after March 15, 2015, CalRecycle has not accepted the application as  
5 complete, Golden By-Products shall reduce the the number of whole waste tires and  
6 altered waste tires at the Site to less than 499 PTE. Golden By-Products will have 60  
7 days from March 15, 2015 to clean up, remove, and abate the effects of waste tires at  
8 the Site to less than 499 PTE. Golden By-Products may enact its cleanup bond to pay  
9 for cleanup costs associated with landfill fees, hauling costs, equipment rental cost, and  
10 fuel and power costs.

11 12. In the event Golden By-Products is required to clean up, remove and  
12 abate the effects of waste tires at the Site and does not do so and waste tires are  
13 cleaned up, abated, or any other necessary remedial action is taken by CalRecycle,  
14 Golden By-Products shall grant access to CalRecycle, or any authorized agent of  
15 CalRecycle, to enter onto the site upon which waste tires are unlawfully stored,  
16 stockpiled, or accumulated, to perform all necessary cleanup, abatement, or remedial  
17 work as authorized under Pub. Resources Code § 42846. Golden By-Products agrees  
18 to be liable to CalRecycle to the extent of the costs actually incurred in cleaning up the  
19 waste tires, abating the effects thereof, or taking any other remedial actions to  
20 remediate the site.

21 13. At all such times as Golden By-Products is in substantial compliance with  
22 the terms and conditions set forth in this Stipulation, Golden By-Products will remain a  
23 reliable contractor and shall not be required to declare on a CalRecycle Form 168 that  
24 any of the events listed in that form have occurred.

25 TERMS AND CONDITIONS REGARDING SATISFACTION OF PENALTY

26 14. Pursuant to the terms and conditions of this Stipulation, and subject to the  
27 limitations hereunder, Golden By-Products stipulates to an administrative penalty of  
28

1 \$965,000.00 for the violations set forth in this Stipulation. Payment of the penalty shall  
2 be satisfied in the following manner:

3 a) Golden By-Products shall pay \$200,000 to CalRecycle in the following  
4 manner:

- 5 i. Golden By-Products will pay to CalRecycle the initial sum of \$20,000  
6 on or before the 30<sup>th</sup> day after the effective date of the Administrative  
7 Decision issued pursuant to this Stipulation.
- 8 ii. Golden By-Products will make 12 monthly payments to CalRecycle of  
9 \$1,000 starting on or before the 60<sup>th</sup> day after the effective date of the  
10 Administrative Decision issued pursuant to this Stipulation. Thereafter,  
11 Golden By-Products will make monthly payments to CalRecycle of  
12 \$4000, until the total amount of said payments, together with the initial  
13 \$20,000 payment, totals \$200,000.
- 14 iii. All payments shall be sent to: CalRecycle, Attn: Richard Guess, P.O.  
15 Box 4025, Sacramento, CA 95812-4025, or to such person and/or  
16 place as CalRecycle or its agent may from time to time designate in  
17 writing.
- 18 iv. If any payment by Golden By-Products is not mailed to CalRecycle by  
19 the due date, and if Golden By-Products fails to cure the missed  
20 payment(s) within twenty (20) days of said missed payment, Golden  
21 By-Products shall be found in partial default of this Stipulation and shall  
22 pay an automatic partial default penalty of \$10,000.

23 15. Golden By-Products and CalRecycle agree that the remaining  
24 administrative penalty of \$765,000 shall be suspended and stayed for a period of five  
25 years. The stayed penalty shall be deemed terminated and shall not be paid by Golden  
26 By-Products following the five-year period, absent a default as described below, or a  
27 violation of the waste tire laws, rules, and regulations set forth in Chapter 16  
28



1 commencing with Pub. Resources Code § 42800 et seq.), Chapter 19 (commencing  
2 with Pub. Resources Code § 42950 et seq.), and Title 14 CCR, Division 7.

3 GENERAL TERMS AND DEFINITIONS

4 16. The Parties agree the following will apply to a full default or partial default  
5 of this Stipulation:

6 a) **Full Default:** Unless otherwise specified, Golden By-Products is in full  
7 default of this Stipulation if Golden By-Products fails to comply with the terms  
8 and conditions set forth in this Stipulation. In the event that CalRecycle  
9 discovers a default of this Stipulation, CalRecycle shall notify Golden By-  
10 Products by issuing a Notice of Default. Golden By-Products will have 30  
11 days from the date of issuance of the Notice of Default to respond to  
12 CalRecycle's allegations and provide evidence refuting CalRecycle's claim of  
13 default. CalRecycle will review all counterarguments and evidence provided  
14 by Golden By-Products and will make a determination as to whether a default  
15 occurred, and if appropriate, shall issue a Supplemental Administrative  
16 Decision ordering the remaining abeyance penalty amount due and payable.  
17 Golden By-Products may appeal CalRecycle's determination within 30 days  
18 of the issuance of the Supplemental Administrative Decision. Any and all  
19 appeals shall be heard by CalRecycle's Director or the Director's designee.

20 b) **Partial Default:** In the event of a partial default, CalRecycle shall notify  
21 Golden By-Products by issuing a Notice of Default and shall state the amount  
22 of penalties due. Golden By-Products will have 30 days from the date of  
23 issuance of the Notice of Default to respond to CalRecycle's allegations and  
24 provide evidence refuting CalRecycle's claim of default. Upon review of  
25 counter arguments, CalRecycle shall either advise Golden By-Products that it  
26 has determined no default occurred, or shall issue an invoice ordering Golden  
27 By-Products to pay the specific penalty within 30 days. If Golden By-Products  
28 is in partial default of the Stipulation and is ordered to pay a partial default fine

1 AND fails to do so within 30 days, the failure to pay shall constitute a full  
2 default of the Stipulation and the remaining abeyance penalty amount shall  
3 become due and payable.

4 17. The Parties agree the following definitions will apply for purposes of  
5 compliance with this Stipulation:

6 a) As used in this Stipulation, "whole waste tires" includes processed waste tires  
7 that measure larger than a ¼ inch in size and are stored in piles or other  
8 methods, but does not include processed waste tires that measure larger than  
9 a ¼ inch in size that are stored in super-sacks, bins, or boxes.

10 b) As used in this Stipulation, "altered waste tires" includes processed waste  
11 tires that measure larger than a ¼ inch in size and less than two inches in  
12 size, and are stored in super-sacks, bins, or boxes.

13 18. The Parties agree that the execution of this Stipulation is done entirely for  
14 the purpose of compromise and settlement of the proceeding described above.

15 19. Nothing shall be implied in this Stipulation that shall preclude CalRecycle,  
16 CalRecycle's Director, or an agent designated by the Director from using any  
17 enforcement mechanism, whether administrative, civil, or criminal, should Golden By-  
18 Products commit future violations of the laws, rules, and regulations set forth in Chapter  
19 16 commencing with Pub. Resources Code § 42800 et seq.), Chapter 19 (commencing  
20 with Pub. Resources Code § 42950 et seq.), and Title 14 CCR, Division 7.

21 20. The Parties agree that any and all enforcement actions taken by  
22 CalRecycle and all rights or remedies available under CalRecycle's statutory and  
23 regulatory authority pertaining to waste tires and waste tire hauler registration, are  
24 independent of CalRecycle's actions taken on any loans issued by CalRecycle to  
25 Golden By-Products.

26 21. The Administrative Decision issued pursuant to this Stipulation is  
27 considered a final order that can be used in subsequent enforcement actions as the  
28 basis for increased penalties.

1           22. No covenant, promise, term, condition, breach, or default of, or under this  
2 Stipulation shall be deemed to have been waived except as expressly so stated in  
3 writing by CalRecycle. A waiver by CalRecycle of any breach or default by Golden By-  
4 Products under this Stipulation shall not be deemed a waiver of any proceeding or  
5 subsequent breach or default.

6           23. Golden By-Products has freely and voluntarily entered into this Stipulation  
7 and has been afforded the opportunity to seek and consult with counsel prior to entering  
8 into this Stipulation. It is expressly understood and agreed that no representations or  
9 promises of any kind, other than as contained herein, have been made by any party to  
10 induce any other party to enter into this Stipulation, and that said Stipulation may not be  
11 altered, amended, modified or otherwise changed except by a writing executed by each  
12 of the Parties hereto. The Parties hereto agree to execute and deliver any and all  
13 documents and to take any and all actions necessary or appropriate to consummate this  
14 Stipulation and to carry out its terms and provisions

15           24. Except as expressly provided herein, Golden By-Products waives the right  
16 in the entitled matter to a hearing, any and all appeals, and any and all rights that may  
17 be afforded pursuant to the Pub. Resources Code, the Administrative Procedure Act, or  
18 any other provision of law regarding the express provisions of this Stipulation.

19           25. The terms of this Stipulation shall be binding upon the Parties and inure to  
20 the benefit of their representative, successors, heirs, and assigns.


21           26. This Stipulation and the Administrative Decision constitute the entire  
22 understanding of the Parties concerning the settlement of this proceeding. There are no  
23 restrictions, promises, warranties, covenants, undertakings, or representations other  
24 than those expressly set forth herein or contained in separate written documents  
25 delivered or to be delivered pursuant hereto, and the Parties expressly acknowledge  
26 that they have not relied upon any restrictions, promises, warranties, covenants,  
27 undertakings, or representations other than those expressly contained herein.

28

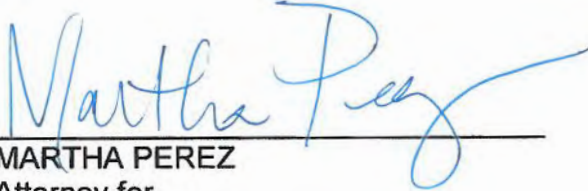
1           27. This Stipulation shall not have, or be construed to have, any precedential  
2 effect with respect to any present or future litigation by and between the Parties.

3           28. The effective date of this Stipulation is the date of issuance of the  
4 Administrative Decision.


5  
6 Dated: 10/13/2014

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

7  
8  
9  
10  
11 Dated: 10-13-14

  
MARTHA PEREZ  
Attorney for  
DEPARTMENT OF RESOURCES,  
RECYCLING AND RECOVERY  
(CALRECYCLE)

12  
13  
14  
15  
16  
17 Dated: Oct 9, 2014

  
Karen Barstow  
Chief Financial Officer  
GOLDEN BY-PRODUCTS, INC.

18  
19  
20  
21  
22 Dated: 10-9-14

  
Brett Barstow  
Chief Executive Officer  
GOLDEN BY-PRODUCTS, INC.

1 ELLIOT BLOCK SBN 116999  
Chief Counsel  
2 HEATHER L. HUNT SBN 225861  
3 MARTHA PEREZ SBN 271766  
Attorneys for Complainant  
4 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY  
1001 I Street, 24<sup>th</sup> Floor  
5 P. O. Box 4025  
6 Sacramento, CA 95812-4025  
Telephone: (916) 341- 6494  
7 Facsimile: (916) 319-7804

8  
9 **STATE OF CALIFORNIA**

10 **DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

11 **IN THE MATTER OF:**

12 **Golden By-Products, Inc.,**

13 **PROPERTY OWNER AND OPERATOR**

14  
15 **RESPONDENT.**

16 **TPID NO.: 1003314**

**Case No. IH14-008-TIR**

**ADMINISTRATIVE DECISION FOR  
WASTE TIRE STORAGE  
ADMINISTRATIVE PENALTIES**

**AGENCY NO. 2014-011166-ADC**

17  
18  
19 **INTRODUCTION**

20 The California Department of Resources Recycling and Recovery (hereafter,  
21 "CalRecycle") has authority to regulate and conduct enforcement actions against waste  
22 tire facilities and waste tire haulers within the State of California pursuant to Public  
23 Resources Code (PRC) sections 42800 et seq., 42950 et seq., and attendant  
24 regulations contained in Title 14 of the California Code of Regulations ("CCR"). This  
25 **ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE ADMINISTRATIVE**  
26 **PENALTIES** (hereafter, "Administrative Decision") is issued pursuant to the  
27 **STIPULATION FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES**  
28 (hereafter, "Stipulation") entered into by Golden By-Products, Inc., Property Owner and

1 Operator, (hereafter, referred to as "Respondent" or Golden By-Products") and  
2 CALRECYCLE.

3 Pursuant to PRC section 42851, CALRECYCLE issued an ADMINISTRATIVE  
4 COMPLAINT FOR WASTE TIRE STORAGE PENALTIES (hereafter, "Administrative  
5 Complaint") seeking \$730,000.00 against Respondent on June 27, 2014. On July 10,  
6 2014, Stephen Krauss, representative for Respondent filed a REQUEST FOR  
7 HEARING/NOTICE OF DEFENSE with the CalRecycle Legal Office. An informal  
8 hearing was scheduled for September 10, 11 and 12, 2014, at 10:00 a.m. at  
9 CalRecycle's offices, located at 801 K Street, 19<sup>th</sup> Floor, Room 1919, Sacramento,  
10 California 95814. On August 27, 2014, CALRECYCLE issued a FIRST AMENDED  
11 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE PENALTIES  
12 (hereafter, "Amended Complaint") seeking \$965,000.00 against RESPONDENT.

13 From the time period beginning on or around August 1, 2014 and continuing  
14 thereafter, CalRecycle and Golden By-Products (hereafter, referred to collectively as  
15 "the Parties") took part in discussions regarding possible settlement of this matter. In  
16 order to continue settlement discussions in this matter, on September 4, 2014, the  
17 Parties submitted a JOINT REQUEST FOR CONTINUANCE OF HEARING DATE  
18 requesting that the September 10, 11, and 12, 2014 hearing be continued to October  
19 15, 16, and 17, 2014. On September 4, 2014, Hearing Officer Thomas W. Vallance,  
20 issued an ORDER GRANTING CONTINUANCE AND NOTICE OF HEARING  
21 continuing the hearing until October 15, 16, and 17, 2014, at 10:00 a.m., CalRecycle,  
22 801 K Street, Room 1919 (DOR Training Room), Sacramento, California 95814.

23 The Parties negotiated a Stipulation in lieu of litigating the case at an  
24 administrative hearing. Good cause appearing therefore, the following Findings of Fact  
25 and Conclusions of Law are made.

26 ///

27 ///

28 ///

1 **FINDINGS OF FACT**

2 1. The Administrative Complaint was executed by MARTHA PEREZ, Staff  
3 Counsel, CALRECYCLE, acting in her official capacity.

4 2. CALRECYCLE has authority to inspect, permit, regulate and conduct  
5 enforcement actions against Waste Tire Haulers and Waste Tire Facilities within the  
6 State of California under PRC section 42800, et seq., 42950 et seq., and attendant  
7 regulations contained in Title 14 of the California Code of Regulations (CCR).

8 Golden By-Products, Inc., Tire Program Identification ("TPID") Number 1003314, is a  
9 major permitted waste tire facility located at 13000 Newport Dr., Ballico, California,  
10 95303, Assessor's Parcel Number 041-120-019 (hereafter, referred to as "the Site").

11 3. Golden By-Products is a "Major waste tire facility" as that term is defined  
12 in Pub. Resources Code section 42808(b).

13 4. A "Major Waste Tire Facility" is defined in PRC section 42808(b) as "a  
14 waste tire facility where, at any time, 5,000 or more waste tires are or will be stored,  
15 stockpiled, accumulated, or discarded."

16 5. On July 6, 2009, CALRECYCLE issued Golden By-Products a new waste  
17 tire facility permit for a "Major Waste Tire Facility," (hereafter, referred to as "Major  
18 WTFP") authorizing a maximum permitted capacity of 1,500 tons of whole tires and  
19 primary shreds (altered waste tires larger than 2 inches in diameter) (150,000  
20 passenger tire equivalents (PTE<sup>1</sup>)), and 8,500 tons of other material, as that material is  
21 described in the Major WTFP.

22 6. From November 6, 2013, and until the present, Golden By-Products has  
23 stored in excess of 150,000 PTE of whole waste tires and/or altered waste tires on the  
24 Site.

25 7. On November 6, 2013, at 1:30 pm, Merced County Environmental Health  
26 inspectors Esperanza Cabrera-Clark, Paul Wrighton, and supervisor Vickie Jones,  
27

28 <sup>1</sup> "Passenger Tire Equivalents" (PTE) is defined as, "the total weight of altered waste tires, in pounds,  
divided by 20 pounds." (Cal. Code regs. tit. 14, section 17225.770.)

1 along with CalRecycle inspectors Steve Dolan, Robert Baumann, Peder Kryski, Jean  
2 Whalen, and Mathew Vipond performed a routine inspection of the Site. Also in  
3 attendance performing a separate fire safety inspection of the site was Merced County  
4 Fire Marshal, Hank Moore. As documented in Inspection Report #I1-1206501, Merced  
5 County and CalRecycle inspectors determined that a total whole waste tire and altered  
6 waste tire (greater than two inches in diameter) count of approximately 466,868 PTE  
7 were being stored on the Site. Golden By-Products was issued a Notice of Violation for  
8 violations specific to its Major WTFP capacity limits, storage of waste tires outdoors,  
9 and other terms and conditions of its Major WTFP, and was provided a compliance  
10 deadline date of March 3, 2014.

11 8. On March 5, 2014, Merced County inspector Esperanza Cabrera-Clark  
12 and CalRecycle Inspectors Steve Dolan, Robert Baumann, Jean Whalen, Mathew  
13 Vipond, and Dustin Schiavo performed a re-inspection of the Site. Also in attendance  
14 during this inspection were Margie Comotto and Kevin Taylor, of CalRecycle's  
15 permitting division. As documented in Inspection Report #IW-1010048, Merced County  
16 and CalRecycle inspectors determined that a total whole waste tire and altered waste  
17 tire (greater than two inches in diameter) count of approximately 565,514 PTE were  
18 being stored on the Site. Golden By-Products was cited for violations specific to its  
19 Major WTFP capacity limits, storage of waste tires outdoors, and other terms and  
20 conditions of its Major WTFP. Violations noted during the November 6, 2013 inspection  
21 were still outstanding. Inspection Report #IW-1010048 was mailed to Golden By-  
22 Products first-class United States Postal Service (USPS) certified mail on March 14,  
23 2014.

24 9. On March 14, 2014, CalRecycle issued Cleanup and Abatement Order  
25 (hereafter, referred to as "CAO") 2014-011034-CAO to Golden By-Products for violating  
26 waste tire storage laws and regulations, and for capacity violations related to Golden  
27 By-Products' Major WTFP. Golden By-Products was served with the CAO on or around  
28 March 17-18, 2014. The CAO ordered Golden By-Products to, "*remove all waste tires*



1 *in excess of 1,500 tons or 150,000 passenger tire equivalents from the premises within*  
2 *30 days from the date of service of this Cleanup and Abatement Order (CAO)."*

3 (Emphasis added.) The CAO also ordered Golden By-Products to do the following,  
4 "[b]eginning March 24, 2014, maintain daily incoming and outgoing tonnage records for  
5 all waste/PTE tires until you obtain compliance with section one [of the CAO] above . . .  
6 submit [above records] to Geralda Stryker of my [CALRECYCLE] staff . . . by close of  
7 business on Friday of each week for the duration."

8 10. On April 29, 2014, Merced County inspector Esperanza Cabrera-Clark  
9 and CALRECYCLE Inspectors Steve Doan, Robert Baumann, Peder Kryski, Jean  
10 Whalen, Mathew Vipond, Dustin Schiavo, and Nikki Castagneto performed a follow-up  
11 inspection of the Site to determine compliance with the CAO. Also in attendance during  
12 this inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance –  
13 Central Unit. As documented in Inspection Report #IW-1011032, Merced County and  
14 CalRecycle inspectors determined that a total whole waste tire and altered waste tire  
15 (greater than two inches in diameter) count of approximately 946,400 PTE were being  
16 stored on the Site. Golden By-Products was in violation of the CAO and was cited for  
17 violations specific to its Major WTFP capacity limits, storage of waste tires outdoors,  
18 vector control measures, and other terms and conditions of its Major WTFP. Report  
19 #IW-1011032 was sent electronic mail to Steve Krauss of Golden By-Products on May  
20 12, 2014, and USPS first-class mail on May 13, 2014.

21 11. On June 4, 2014, Merced County Inspector Esperanza Cabrera-Clark and  
22 CalRecycle Inspectors Robert Baumann, Mathew Vipond, Dustin Schiavo, Peder Kryski,  
23 Jean Whalen, Billy Yos performed another follow-up inspection of the Site to determine  
24 compliance with the CAO. Also in attendance during this inspection was Geralda  
25 Stryker, supervisor, CalRecycle Waste Tire Compliance – Central Unit. As documented  
26 in Inspection Report #IW-1011790, Merced County and CalRecycle inspectors  
27 determined that a total whole waste tire and altered waste tire (greater than two inches  
28 in diameter) count of approximately 614,697 PTE were being stored on the Site. Golden

1 By-Products was in violation of the CAO and was cited for violations specific to its Major  
2 WTFP capacity limits, storage of waste tires outdoors, and other terms and conditions of  
3 its Major WTFP. Inspection Report #IW-1011790 was sent via electronic mail to Steve  
4 Krauss, Brett Barstow, and Karen Barstow of Golden By-Products on June 17, 2014,  
5 and via first-class USPS mail on June 25, 2014.

6 12. On June 24, 2014, Merced County inspector Esperanza Cabrera-Clark  
7 and CalRecycle Inspectors Robert Baumann, Peder Kryski, Jean Whalen, Mathew  
8 Vipond, Nikki Castagneto, Mary LeClaire, Billy Yos, and Nai Teurn performed a pre-  
9 permit inspection of the Site and a follow-up inspection to determine compliance with  
10 the CAO. Also in attendance performing a separate fire safety inspection of the site was  
11 Merced County Fire Marshal, Hank Moore. As documented in Inspection Report #IW-  
12 1011953, Merced County and CalRecycle inspectors determined that a total whole  
13 waste tire and altered waste tire (greater than two inches in diameter) count of  
14 approximately 686,027 PTE were being stored on the Site. Golden By-Products was in  
15 violation of the CAO and was cited for violations specific to its Major WTFP capacity  
16 limits, storage of waste tires outdoors, fire prevention measures, and other terms and  
17 conditions of its Major WTFP. Inspection Report #IW-1011953 was sent electronic mail  
18 and first-class USPS mail to Steve Krauss of Golden By-Products on June 27, 2014.

19 13. Golden By-Products' Major WTFP expired on July 6, 2014.

20 14. On July 17, 2014, Merced County inspector Esperanza Cabrera-Clark and  
21 CALRECYCLE Inspectors Robert Baumann, Jean Whalen, Mathew Vipond, Nikki  
22 Castagneto, Dustin Schiavo, Billy Yos, and Nai Teurn performed an inspection of the  
23 Site to determine compliance with state minimum standards and waste tires laws as set  
24 forth in Chapter 16 of the Pub. Resources Code. Also in attendance during this  
25 inspection was Geralda Stryker, supervisor, CalRecycle Waste Tire Compliance –  
26 Central Unit. As documented in Inspection Report #IW-1012530, Merced County and  
27 CalRecycle inspectors determined that a total whole waste tire and altered waste tire  
28 (greater than ¼ inches in diameter) count of approximately 611,860 PTE were being

1 stored on the Site. Golden By-Products was issued a Notice of Violation for violations  
2 specific to storage of waste tires outdoors, fire prevention measures, improper tire pile  
3 storage, insufficient separation between tire piles and flammable materials, surface  
4 water drainage issues, and failure to remove tires from rims upon arrival at the facility.  
5 Inspection Report #IW-1012530 was sent USPS first-class mail on August 15, 2014,  
6 and electronic mail to Karen Barstow of Golden By-Products on August 19, 2014.

7 15. On August 15, 2014, CalRecycle issued a subsequent Cleanup and  
8 Abatement Order 2014-011036-CAO (hereafter, referred to as "August 2014 CAO") to  
9 Golden By-Products for violating waste tire storage laws and regulations, including but  
10 not limited to, violations of state minimum standards and storing 5,000 or more waste  
11 tires on the site without a valid Major waste tire facility permit. Golden By-Products was  
12 served with the CAO on or around August 19, 2014. The August 2014 CAO ordered  
13 Golden By-Products to, "*reduce and maintain the number of waste tires onsite to 0*  
14 *(zero), in accordance with the following: (1) Remove all waste tires from the premises*  
15 *immediately, in accordance with PUB. RESOURCES CODE section 42845(a)(2). (2) At*  
16 *no time may you accept additional waste tires at this site, . . . for as long as this site*  
17 *remains in violation.*" (Emphasis added.)

#### 18 **CONCLUSIONS OF LAW**

19 16. Golden By-Products violated PRC section 42845, cleanup, abate the  
20 effects of waste tires, or take other remedial action as necessary upon ordered by the  
21 Department [CalRecycle] in the CAO and the August 2014 CAO, PRC section 42850(a),  
22 complying with the terms and conditions of the Major WTFP, Title 14 CCR section  
23 17353(a), vector control measures, and Title 14 CCR section 17354, outdoor storage  
24 requirements, including pile size, fire lane, and rim removal requirements.

#### 25 **ORDER**

26 CalRecycle hereby approves of and adopts the Stipulation, including the  
27 stipulated factual background and the stipulated order, including the terms and  
28 conditions regarding satisfaction of penalty, and the general terms and conditions. The

1 following Order is hereby made:

2 1. Golden By-Products shall not accept any waste tires at the Site, until all of  
3 the following conditions are met:

4 a. CalRecycle inspectors perform an inspection of the Site and CalRecycle  
5 provides written notice to Golden By-Products verifying the following:

6 i. The facility is storing less than 2,000 tons (200,000 PTE) of "whole  
7 waste tires" and less than 6,500 tons of "altered waste tires," as  
8 those terms are defined below;

9 ii. Whole waste tires at the Site are restricted to individual piles not  
10 exceeding 5,000 square feet of contiguous area. Piles do not  
11 exceed 50,000 cubic feet in volume nor 10 feet in height. Whole  
12 waste tires are separated from vegetation and other potentially  
13 flammable materials by no less than 40 feet.

14 b. CalRecycle provides written notice to Golden By-Products verifying the  
15 following:

16 i. Golden By-Products has provided acceptable written  
17 documentation to CalRecycle showing that Golden By-Products  
18 has made arrangements to take up to 500 tons (5,000 PTE) of  
19 waste tires per week, for 10 weeks, to landfills or other facilities  
20 authorized to take waste tires. Written documentation includes, but  
21 is not limited to: (1) letter(s) from landfills or other facilities agreeing  
22 to accept waste tires, or (2) contract(s) from landfills or other  
23 facilities agreeing to accept waste tires.

24 2. A failure to comply with the requirements set forth in paragraph 1.a. and  
25 1.b. above will result in a partial default of this Stipulation and Golden By-Products must  
26 immediately cease accepting waste tires at the Site. In addition, Golden By-Products  
27 may not apply for a Major Waste Tire Facility Permit for three years from the effective  
28 date of the Administrative Decision issued pursuant to this Stipulation.

1           3.       CalRecycle may revoke Golden By-Products' authorization to accept  
2 waste tires at the Site at any time, by providing written notice to Golden By-Products.

3           4.       Beginning on or before November 17, 2014, Golden By-Products shall  
4 store no more than 2,000 tons (200,000 PTE) of whole waste tires and 6,500 tons of  
5 altered waste tires at the Site. Failure to comply with this term will result in an automatic  
6 partial default penalty of \$10,000 against Golden By-Products and in favor of  
7 CalRecycle

8           5.       Beginning on or before November 17, 2014, Golden By-Products shall  
9 comply with the whole waste tire storage requirements as specified above in paragraph  
10 1.a.ii. Failure to comply with this term will result in an automatic partial default penalty of  
11 \$25,000 against Golden By-Products and in favor of CalRecycle.

12           6.       Beginning on or before December 2, 2014, Golden By-Products shall store  
13 no more than 1,000 tons (100,000 PTE) of whole waste tires and 6,500 tons of altered  
14 waste tires at the Site. Failure to comply with this term will result in an automatic partial  
15 default penalty of \$50,000 against Golden By-Products, and in favor of CalRecycle.

16           7.       Effective immediately, Golden By-Products shall contact CalRecycle's  
17 enforcement staff within 24 hours of any event resulting in substantial downtime at the  
18 Site, excluding routine maintenance. At minimum, Golden By-Products shall contact Bill  
19 Albert, CalRecycle Tire Enforcement Section manager, at (916) 341-6430 and email at  
20 [Bill.Albert@CalRecycle.ca.gov](mailto:Bill.Albert@CalRecycle.ca.gov).

21           8.       Effective immediately, Golden By-Products shall contact CalRecycle's  
22 enforcement staff within 24 hours of any major accident or incident of fire at the Site. At  
23 minimum, Golden By-Products shall contact Bill Albert, CalRecycle Tire Enforcement  
24 Section manager, at (916) 341-6430 and email at [Bill.Albert@CalRecycle.ca.gov](mailto:Bill.Albert@CalRecycle.ca.gov).

25           9.       Golden By-Products agrees to continue providing weekly updates on daily  
26 incoming and outgoing tonnage records for all waste tires/PTE to CalRecycle, as  
27 ordered in the March 14, 2014 CAO (2014-011034-CAO).

28       ///

1           10. On or before January 1, 2015, Golden By-Products shall apply for a major  
2 waste tire facility permit (hereafter, referred to as "Major WTFP") subject to the following  
3 conditions:

- 4           a. Golden By-Products will submit a Major WTFP application (hereafter,  
5 referred to as "permit application") to CalRecycle pursuant to the  
6 requirements set forth in Title 14 California Code of Regulations ("CCR"),  
7 Division 7, Chapter 6, Article 2 (Filing an Application) and Article 4 (Permit  
8 Application);
- 9           b. Golden By-Products will meet all state minimum standard requirements as  
10 outlined in Title 14 CCR, Division 7, Chapter 3, Article 5.5 (Waste Tire  
11 Storage and Disposal Standards) including but not limited to, an adequate  
12 water supply capable of delivering at least 2,000 gpm for a duration of at  
13 least three hours if the sum of altered plus whole waste tires exceeds  
14 10,000 PTE; and
- 15           c. Golden By-Products will increase its financial assurance mechanisms in  
16 its permit application to at least \$160,000, with a "surety bond," as that  
17 term is defined in Title 14 CCR section 18471(a)(7), to ensure adequate  
18 financial ability to conduct closure activities of the Major Waste Tire  
19 Facility. If Golden By-Products is unable to secure a surety bond for  
20 \$160,000, Golden By-Products must submit to CalRecycle acceptable  
21 written documentation showing inability to secure the \$160,000 surety  
22 bond. At all such times as Golden By-Products does not have a \$160,000  
23 surety bond, Golden By-Products must have an open escrow account to  
24 cover the costs associated with closure activities of the Major Waste Tire  
25 Facility. Golden By-Products must secure the \$160,000 surety bond within  
26 six months from applying for the Major WTFP. A violation of this condition  
27 constitutes a partial default.
- 28           d. CalRecycle will have 30 days to accept the permit application as

1 complete, or reject the permit application.

2 e. CalRecycle may reject the permit application for any of the following:

3 i. Golden By-Products' failure to meet the requirements as specified  
4 above in paragraph 10.a., 10.b. and 10.c.

5 ii. Golden By-Products' failure to meet any of the terms and conditions  
6 of this Stipulation.

7 iii. Golden By-Products' failure to submit a permit application that  
8 reflects the Site's current operation.

9 iv. Golden By-Products' failure to maintain whole waste tire storage  
10 limits at or below 1,000 tons (100,000 PTE) and 6,500 tons of  
11 altered waste tires.

12 f. If CalRecycle rejects the permit application, CalRecycle will notify Golden  
13 By-Products, in writing, enumerating the grounds for rejection. Golden By-  
14 Products will have 30 days to cure a rejected permit application. Failure to  
15 cure a rejected permit application within 30 days, will result in an  
16 automatic partial default penalty of \$2,500 against Golden By-Products,  
17 and in favor of CalRecycle.

18 g. March 15, 2015 is the deadline for the permit application to be accepted  
19 by CalRecycle.

20 11. If after March 15, 2015, CalRecycle has not accepted the application as  
21 complete, Golden By-Products shall reduce the number of whole waste tires and altered  
22 waste tires at the Site to less than 499 PTE. Golden By-Products will have 60 days from  
23 March 15, 2015 to clean up, remove, and abate the effects of waste tires at the Site to  
24 less than 499 PTE. Golden By-Products may enact its cleanup bond to pay for cleanup  
25 costs associated with landfill fees, hauling costs, equipment rental cost, and fuel and  
26 power costs.

27 12. In the event Golden By-Products is required to clean up, remove and  
28 abate the effects of waste tires at the Site and does not do so and waste tires are

1 cleaned up, abated, or any other necessary remedial action is taken by CalRecycle,  
2 Golden By-Products shall grant access to CalRecycle, or any authorized agent of  
3 CalRecycle, to enter onto the site upon which waste tires are unlawfully stored,  
4 stockpiled, or accumulated, to perform all necessary cleanup, abatement, or remedial  
5 work as authorized under Pub. Resources Code § 42846. Golden By-Products shall be  
6 liable to CalRecycle to the extent of the costs actually incurred in cleaning up the waste  
7 tires, abating the effects thereof, or taking any other remedial actions to remediate the  
8 site.

9 13. At all such times as Golden By-Products is in substantial compliance with  
10 the terms and conditions set forth in this Stipulation, Golden By-Products will remain a  
11 reliable contractor and shall not be required to declare on a CalRecycle Form 168 that  
12 any of the events listed in that form have occurred.

13 14. Golden By-Products shall pay \$200,000 to CalRecycle in the following  
14 manner:

15 a) Golden By-Products shall pay to CalRecycle the initial sum of \$20,000 on or  
16 before the 30<sup>th</sup> day after the effective date of the Administrative Decision  
17 issued pursuant to this Stipulation.

18 b) Golden By-Products shall make 12 monthly payments to CalRecycle of  
19 \$1,000 starting on or before the 60<sup>th</sup> day after the effective date of the  
20 Administrative Decision issued pursuant to this Stipulation. Thereafter,  
21 Golden By-Products shall make monthly payments to CalRecycle of \$4000,  
22 until the total amount of said payments, together with the initial \$30,000  
23 payment, totals \$200,000.

24 c) All payments shall be sent to: CalRecycle, Attn: Richard Guess, P.O. Box  
25 4025, Sacramento, CA 95812-4025, or to such person and/or place as  
26 CalRecycle or its agent may from time to time designate in writing.

27 d) If any payment by Golden By-Products is not mailed to CalRecycle by the due  
28 date, and if Golden By-Products fails to cure the missed payment(s) within



1           twenty (20) days of said missed payment, Golden By-Products shall be found  
2           in partial default of this Stipulation and shall pay an automatic partial default  
3           penalty of \$10,000.

4           15.    The remaining administrative penalty of \$765,000 shall be suspended and  
5           stayed for a period of five years. The stayed penalty shall be deemed terminated and  
6           shall not be paid by Golden By-Products following the five-year period, absent a default  
7           as described below, or a violation of the waste tire laws, rules, and regulations set forth  
8           in Chapter 16 (commencing with Pub. Resources Code § 42800 et seq.), Chapter 19  
9           (commencing with Pub. Resources Code § 42950 et seq.), and Title 14 CCR Division 7.

10          16.    **Full Default:** Unless otherwise specified, Golden By-Products is in full  
11          default of this Stipulation if Golden By-Products fails to comply with the terms and  
12          conditions set forth in this Stipulation. In the event that CalRecycle discovers a default  
13          of this Stipulation, CalRecycle shall notify Golden By-Products by issuing a Notice of  
14          Default. Golden By-Products will have 30 days from the date of issuance of the Notice  
15          of Default to respond to CalRecycle's allegations and provide evidence refuting  
16          CalRecycle's claim of default. CalRecycle will review all counterarguments and  
17          evidence provided by Golden By-Products and will make a determination as to whether  
18          a default occurred, and if appropriate, shall issue a Supplemental Administrative  
19          Decision ordering the remaining abeyance penalty amount due and payable. Golden  
20          By-Products may appeal CalRecycle's determination within 30 days of the issuance of  
21          the Supplemental Administrative Decision. Any and all appeals shall be heard by  
22          CalRecycle's Director or the Director's designee.


23          17.    **Partial Default:** In the event of a partial default, CalRecycle shall notify  
24          Golden By-Products by issuing a Notice of Default and shall state the amount of  
25          penalties due. Golden By-Products will have 30 days from the date of issuance of the  
26          Notice of Default to respond to CalRecycle's allegations and provide evidence refuting  
27          CalRecycle's claim of default. Upon review of counter arguments, CalRecycle shall  
28          either advise Golden By-Products that it has determined no default occurred, or shall

1 issue an invoice ordering Golden By-Products to pay the specific penalty within 30 days.  
2 If Golden By-Products is in partial default of the Stipulation and is ordered to pay a  
3 partial default fine AND fails to do so within 30 days, the failure to pay shall constitute a  
4 full default of the Stipulation and the remaining abeyance penalty amount shall become  
5 due and payable.

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7 This Administrative Decision shall become effective as of the date signed below.

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Dated: 10/13/2014

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