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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

10 In the matter of:

11 VICTOR GARCIA DBA GARCIA'S TIRE  
12 SHOP  
13  
14 TPID NO: 1005384-01  
15 RESPONDENT.

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

16 AGENCY NO: 2010-011111-ADC

17 **INTRODUCTION**

18 The parties to this Stipulation For The Issuance Of Administrative Decision For  
19 Waste Tire Hauler Administrative Penalties (Stipulation) are the California Department  
20 of Resources Recycling and Recovery (CALRECYCLE) and Victor Garcia dba Garcia's  
21 Tire Shop (RESPONDENT). CALRECYCLE served an Administrative Complaint for  
22 Waste Tire hauler Penalties in this matter on August 13, 2010.

23 The parties have agreed to settle this matter in order to avoid the cost and  
24 uncertainty of litigation. This Stipulation resolves all issues raised in this matter.

25 **STIPULATED STATEMENT OF FACTS**

26 1. CALRECYCLE has authority to regulate and conduct enforcement  
27 actions regarding waste tire haulers within the State of California pursuant to PRC  
28

1 section 42950 et seq. and attendant regulations contained in Title 14 of the California  
2 Code of Regulations (CCR).

3 2. RESPONDENT registered as a waste tire hauler with CALRECYCLE on  
4 March 29, 2000, and was issued Waste Tire Hauler Registration (registration) ID  
5 number 1005384.

6 3. A registered waste tire hauler is required to maintain a surety bond  
7 (bond) in the amount of \$10,000 "in full force and effect during all registration periods.  
8 Failure to maintain an adequate bond pursuant to [PRC] section 42955(d), shall result  
9 in automatic cancellation of the waste tire hauler registration." (14 CCR § 18456.1(b).)

10 4. On October 24, 2008, CALRECYCLE received a Notice of Cancellation  
11 dated October 22, 2008, for the surety bond issued to RESPONDENT by American  
12 Contractor's Indemnity Company. According to the Notice of Cancellation the  
13 cancellation would become effective 30 days after receipt of the Notice of Cancellation.

14 5. On October 28, 2008, CALRECYCLE mailed correspondence to  
15 RESPONDENT advising RESPONDENT that it must renew its current bond or retain a  
16 new bond prior to the effective date on the Notice of Cancellation in order to retain its  
17 registration.

18 6. On December 23, 2008, CALRECYCLE mailed correspondence to  
19 RESPONDENT advising RESPONDENT that its registration was cancelled based on  
20 RESPONDENT's failure to provide CALRECYCLE with a replacement bond.

21 7. On January 9, 2010, CALRECYCLE issued RESPONDENT a new  
22 registration effective through December 31, 2010.

23 8. During an inspection of RESPONDENT's facility on November 5, 2009,  
24 Jim Henderson, an inspector with the San Diego County Department of Environmental  
25 Health, discovered Comprehensive Trip Logs (CTLs) documenting 19 separate  
26 occasions during which RESPONDENT picked-up or delivered waste or used tires  
27 using registration number 1005384 between January, 15, 2009, an December 31,  
28 2009, in violation of PRC section 42952(b):

CTL	Transaction Date	Pick up	Delivery	Passenger Tire Equivalents	Generator/End Use Facility
3498854-B	8/4/09	X		130	Mira Mesa Tire
3498854-C	8/11/09	X		125	Atoz Auto
3498882-A	1/15/09		X	6.84	Azuza Land Reclamation
3498882-B	8/13/09		X	6.80	Azuza Land Reclamation
3498882-C	8/18/09	X		79	4 Wheel Parts
3498897-A	5/28/09		X	7.63	Azuza Land Reclamation
3498897-B	6/2/09		X	7.15	Azuza Land Reclamation
3498897-C	8/4/09	X		117	Atoz Auto
3731315-A	12/18/09	X		120	Rubber Recovery
3731315-B	12/21/09		X	8.77	Azuza Land Reclamation
3830147-A	8/18/09	X		14	Rubber Recovery
3830147-B	8/25/09		X	4.44	Azuza Land Reclamation
3830147-C	9/25/09	X		46	Rubber Recovery
3830150-A	10/08/09		X	11.21	Azuza Land Reclamation
3830150-B	10/09/09	X		669	Duran's Tire Recycling
3830150-C	10/12/09	X		185	Mira Mesa Tire
3830152-A	8/13/09	X		50	Rubber Recovery
3830152-B	8/-/09		X	102	Atoz Auto
3830152-C	8/27/09	?	?	158	Mira Mesa Tire

### STIPULATED LEGAL CONCLUSIONS

9. On at least 19 separate occasions between January 15, 2009, and December 31, 2009, RESPONDENT knowingly violated PRC section 42952(b) by representing itself as being in the business of a waste and used tire hauler without being registered as a waste and used tire hauler by CALRECYCLE.

1 10. CALRECYCLE's authority to assess administrative penalties against  
2 RESPONDENT as a waste tire hauler is set forth in PRC Section 42962(c), and 14  
3 CCR section 18464.

4 **STIPULATED PENALTIES**

5 11. RESPONDENT stipulates to the following terms in full and complete  
6 settlement of the facts and violations stated above.

7 a. An administrative penalty in favor of CALRECYCLE in the sum of nineteen  
8 thousand dollars (\$19,000.00), for the violations set forth in the Administrative  
9 Complaint in the following manner:

10 i) Thirteen thousand dollars (\$13,000.00) of this administrative  
11 penalty shall be stayed for a period of three (3) years, and such amount will be  
12 extinguished following the three-year period absent a default as described below. If  
13 RESPONDENT defaults on any terms or conditions of this STIPULATION, the stay  
14 shall be lifted and RESPONDENT shall owe CALRECYCLE, and immediately pay,  
15 nineteen thousand dollars (\$19,000.00), less any payments already received.

16 ii) RESPONDENT shall pay to CALRECYCLE the sum of six  
17 thousand dollars (\$6,000.00) over the course of three (3) years in monthly payments of  
18 one hundred sixty seven dollars (\$167). The first payment shall be due on March 20,  
19 2011. Each subsequent payment shall be due on the 20<sup>th</sup> day of each month.  
20 Payments shall be made to CALRECYCLE, Attn: Esther Gallegos, at P. O. Box 4025,  
21 Sacramento, CA 95812-4025, or to such other person and/or place as CALRECYCLE  
22 or its agent may from time to time designate in writing. If any payment due by  
23 RESPONDENT hereunder is not received within ten (10) days of the due date,  
24 RESPONDENT shall be deemed in default of this STIPULATION.

25 iii) If RESPONDENT fails to pay the amount owed hereunder,  
26 RESPONDENT will be in default, and agrees to CALRECYCLE recording a lien on any  
27 real or personal property owned by RESPONDENT for the amount owed to  
28 CALRECYCLE. Once the balance owed is paid, CALRECYCLE shall record a  
Satisfaction of Lien form.

1           b. For the three-year time-period subsequent to the issuance of the  
2 ADMINISTRATIVE DECISION concerning this matter, RESPONDENT agrees to the  
3 following:

4           i) RESPONDENT shall comply with all of the California Waste and  
5 Used Tire Registration and Manifest requirements, as provided in PRC section 42961.5  
6 and 14 CCR section 18449 et seq. RESPONDENT shall maintain a manifest error rate  
7 of less than seven percent (7%).

8           ii) RESPONDENT shall comply with all of the California Tire Storage  
9 Requirements, as provided in PRC section 42800 et seq. and 14 CCR section 17350 et  
10 seq. and 14 CCR section 18420 et seq. RESPONDENT shall not store waste tires in  
11 an amount of 500 or more on any property owned or leased by RESPONDENT without  
12 obtaining the required permit. RESPONDENT also shall store used tires in the manner  
13 prescribed by the PRC and Title 14 of the California Code of Regulations.

14           iii) Inspections: Upon presentation of proper credentials,  
15 CALRECYCLE staff, or an authorized agent of CALRECYCLE, shall be allowed to  
16 enter RESPONDENT's place of business during regular business hours, without prior  
17 notice, to conduct inspections and investigations of the premises, to examine and copy  
18 tire manifests, and to take photographs of any and all tires on the premises.  
19 RESPONDENT shall permit free and ready access to business records pertaining to  
20 the storage or hauling of used and waste tires. The purpose of any such inspection  
21 shall be to verify that RESPONDENT is in current compliance with all applicable laws,  
22 rules and regulations governing waste tire haulers.

23           c. Default: If RESPONDENT defaults under the terms of this  
24 STIPULATION, then CALRECYCLE shall send RESPONDENT a letter, by regular  
25 mail, as Notice of Default. Said letter shall state the provision(s) of the STIPULATION  
26 of which RESPONDENT is in default, and shall attach a copy of the Inspection Report  
27 or other report, if any, documenting the violation(s) in issue. RESPONDENT shall have  
28 thirty (30) days from the date of the letter to provide evidence that no default of this

1 STIPULATION occurred. Thereafter, CALRECYCLE staff shall determine whether a  
2 default of the Stipulation occurred.

3 d. No covenant, promise, term, condition, breach or default of or under this  
4 STIPULATION shall be deemed to have been waived except as expressly so stated in  
5 writing by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by  
6 RESPONDENT under this STIPULATION shall not be deemed a waiver of any  
7 preceding or subsequent breach or default by RESPONDENT.

8 e. RESPONDENT has freely and voluntarily entered into this STIPULATION  
9 and has been afforded the opportunity to consult with counsel prior to entering into this  
10 STIPULATION. It is expressly understood and agreed that no representations or  
11 promises of any kind, other than as contained herein, have been made by any party to  
12 induce any other party to enter into this STIPULATION, and that said STIPULATION  
13 may not be altered, amended, modified or otherwise changed except by a writing  
14 executed by each of the parties hereto. Each party hereto agrees to execute and  
15 deliver any and all documents and to take any and all actions necessary or appropriate  
16 to consummate this STIPULATION and to carry out its terms and provisions.

17 f. RESPONDENT waives the right in the entitled matter to a hearing, any  
18 and all appeals and any and all rights that may be afforded pursuant to the Public  
19 Resources Code, the Administrative Procedure Act, or any other provision of law.

20 g. This STIPULATION shall be binding and inure to the benefit of the  
21 successors, heirs and assigns of the respective parties hereto.

22 h. This STIPULATION and the ADMINISTRATIVE DECISION to be issued  
23 constitute the entire understanding of the parties concerning the settlement of this  
24 proceeding. There are no restrictions, promises, warranties, covenants, undertakings,  
25 or representations other than those expressly set forth herein or contained in separate  
26 written documents delivered or to be delivered pursuant hereto, and each party  
27 expressly acknowledges that he has not relied upon any restrictions, promises,  
28 warranties, covenants, undertakings, or representations other than those expressly  
contained herein.

1 i. If necessary, this STIPULATION may be executed in counterparts, each  
2 of which shall be an original, and all together shall form one agreement. In addition, for  
3 purposes of this STIPULATION, facsimile signatures will be treated as originals until  
4 the applicable page(s) bearing non-facsimile signatures have been received by the  
5 parties.

6 j. The effective date adopting this STIPULATION is the date of issuance of  
7 the ADMINISTRATIVE DECISION.

8  
9 Dated: 3/3/2011

  
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TED RAUH  
Deputy Director  
CALIFORNIA DEPARTMENT OF  
RESOURCES RECYCLING AND  
RECOVERY

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11  
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14 Dated: 2-17-11

  
\_\_\_\_\_  
HEATHER HUNT  
Staff Counsel III  
CALIFORNIA DEPARTMENT OF  
RESOURCES RECYCLING AND  
RECOVERY

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16  
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18  
19 Dated: \_\_\_\_\_

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VICTOR GARCIA,  
Garcia's Tire Shop

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 3 purposes of this STIPULATION, facsimile signatures will be treated as originals until  
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8  
 9 Dated: \_\_\_\_\_

10 \_\_\_\_\_  
 11 TED RAUH  
 12 Deputy Director  
 13 CALIFORNIA DEPARTMENT OF  
 14 RESOURCES RECYCLING AND  
 15 RECOVERY

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 17 Dated: \_\_\_\_\_

18 \_\_\_\_\_  
 19 HEATHER HUNT  
 20 Staff Counsel III  
 21 CALIFORNIA DEPARTMENT OF  
 22 RESOURCES RECYCLING AND  
 23 RECOVERY

24  
 25 Dated: 02/22/11

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 27   
 28 VICTOR GARCIA  
 Garcia's Tire Shop