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2	Chief Counsel					
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3	Attorneys for Complainant					
4	DEPARTMENT OF RESOURCES RECYCLING & RECOVERY					
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9	STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY					
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12	In the matter of:	STIPULATION FOR ISSUANCE OF				
'4		ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER				
13	WILSON WAY TIRE COMPANY, INC.	ADMINISTRATIVE PENALTIES				
14						
	BESBONDENT	PUBLIC RESOURCES CODE				
15	RESPONDENT	SECTION 42950, ET SEQ.				
16	1					
17		A OFNOV NO. 2045 244422 ADO				
i	TPID NO.: 1000837-01	AGENCY NO: 2015-011180-ADC				
18						
19	INTRODUCTION AND	PROCEDURAL HISTORY				
20						
20	The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DEC					

The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation) are CALRECYCLE and Wilson Way Tire Company, Inc. (RESPONDENT). On March 8, 2016, CALRECYCLE issued an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Administrative Complaint) to RESPONDENT, which included penalties in the amount of \$9,950.00. RESPONDENT was provided with 15 days from the date of receipt of the Administrative Complaint to request a hearing and file a "Notice of Defense/Request for Hearing" with CALRECYCLE to refute the allegations contained therein. RESPONDENT

requested a hearing on March 31, 2015. A hearing was scheduled for June 22, 2016, in Sacramento, California.

In order to avoid the time, expense, and uncertainties attendant with litigation, the Parties hereby submit this Stipulation as final resolution of this matter. In submitting this Stipulation, the Parties understand, acknowledge, and agree to the facts and terms of Stipulation as set forth herein.

STIPULATED FACTUAL FINDINGS

- 1. The Administrative Complaint was executed by Catherine V. Nystrom, Attorney for CALRECYCLE, acting in her official capacity.
- 2. CALRECYCLE has the authority to permit, regulate, and conduct enforcement actions regarding waste tire facilities and waste tire haulers within the State of California pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations ("CCR").
- 3. A "Waste or Used Tire Hauler" or "Hauler" is defined as, "any person engaged in the transportation of waste or used tires, or tire casings, including haulers that the Department [CALRECYCLE] approved as exempt from registration pursuant to PRC section 42954." (14 CCR section 18450(a)(37).)
- 4. The "California Uniform Waste and Used Tire Manifest" is a form developed by CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14 CCR section 18450(a)(11), and must be filled out completely and accurately, including providing the Tire Program Identification (TPID) number for the location of delivery or pick-up of each load of waste tires.
 - Pursuant to PRC section 42961.5(c)(2):

Any waste and used tire hauler hauling waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof, shall complete the California Uniform Waste and Used Tire Manifest as required by the board [CALRECYCLE]. The waste and used tire hauler

shall provide the manifest to the waste or used tire facility operator who receives the waste or used tires for handling, altering, storage, disposal, or any combination thereof. Each waste and used tire hauler shall submit to the board [CALRECYCLE], on a quarterly schedule, a legible copy of each manifest. The copy submitted to the board [CALRECYCLE] shall contain the signatures of the generator and the facility operator.

- 6. Pursuant to 14 CCR section 18459.2.1:
 - (a) The waste tire hauler shall submit the completed original CTL Form to the Department [CALRECYCLE] within ninety (90) days of the load shipment. The Manifest Form shall be in the waste tire hauler's possession while transporting used or waste tires and shall be shown upon demand to any representative of the Department [CALRECYCLE], any officer of the California Highway Patrol, any peace officer, as defined in Sections 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Department [CALRECYCLE].
 - (b) If approved by the Department [CALRECYCLE] pursuant to PRC section 42961.5, any person that is subject to the requirements set forth in above (a) may substitute their own functionally equivalent EDT [Electronic Data Transfer] form, once approved by the Department [CALRECYCLE], in lieu of the Department [CALRECYCLE] required form and submit an electronic report within ninety (90) days of the load shipment to the Department [CALRECYCLE], in lieu of submitting the required paper form pursuant to Section 18459.1.2. The electronic report shall include all information required to be on the CTL Form.
- 14 CCR section 18459(c)(1) requires waste or used tire haulers, hauling any amount of waste or used tires at any one time in a registered vehicle, to comply with the Waste Tire Manifest System.
- 8. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall submit the completed original CTL Form to the Department within ninety (90) days of the load shipment..."
 - 9. 14 CCR section 18459(b) requires the CTL form be completed.
- 10. 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any waste or used tires, shall not transport waste or used tires without a properly completed CTL

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form, shall not transport waste or used tires without having a completed copy of the CTL form in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL form with the waste or used tire generator or end-use facility, and shall keep a copy of the completed CTL form.

- 11. Title 14 CCR section 18463, subsections (a), (b) and (d), provide that any waste tire hauler who intentionally or negligently violates any permit, rule, regulation, standard, requirement, or allows any violation or noncompliance with any permit, rule, regulation, standard, or requirement pursuant to PRC section 42950 et seq. relating to the generation, transportation, or disposal of used or waste tires, shall be liable for a civil penalty.
 - RESPONDENT became a registered waste tire hauler on March 2, 1998.
- 13. On September 22, 2014, Tire Enforcement Agency (TEA) Inspector Harprit Mattu with San Joaquin County Environmental Health Department conducted an inspection of Ameron Pipe Group (TPID #1370161) located at 10100 West Linne Road, Tracy, CA, and observed seventeen (17) Electronic Data Transfer [EDT] records left by RESPONDENT that had not been submitted to CALRECYCLE at the time of the inspection. Five of these EDT records were subsequently submitted to CALRECYCLE after the inspection, but after the 90-day time period as required by PRC section 42961.5(c)(2). The remaining twelve (12) EDT records were not submitted to CALRECYCLE. Because a CALRECYCLE registered vehicle was used, RESPONDENT was required to use a manifest form for each transaction no matter the amount of tires in the load, pursuant to 14 CCR 18459(c)(1). Inspector Mattu referred the incident to CALRECYCLE's Tire Hauler Compliance Unit in a Hauler Observation Report dated September 22, 2014.
- 14. On December 15, 2014, Inspector Mattu conducted an inspection of Tiger Lines, LLC. (TPID #1411691), located at 927 Black Diamond Way, Lodi, CA and observed thirty-three (33) EDT records left by RESPONDENT that had not been electronically submitted to CALRECYCLE within the 90-day time period as required by PRC section 42961.5(c)(2). This was documented in a December 15, 2014 Hauler Observation Report.

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

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

EDT Receipt	Violation	Location Name	Transaction Date	Submittal Date	Violation Date	Penalty Assessed
		Ameron Pipe Group		<u> </u>		ļ
175211*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 16, 2014	November 20, 2014	July 15, 2014	\$199
175204*	Failure to submit CTL	Ameron Pipe Group	April 11, 2014	Not Submitted	July 10, 2014	\$199
175123*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 4, 2014	November 20, 2014	July 3, 2014	\$199
175117*	Failure to submit CTL form within 90 days	Ameron Pipe Group	March 31, 2014	November 20, 2014	June 29, 2014	\$199
174919*	Failure to submit CTL	Ameron Pipe Group	February 18, 2014	Not Submitted	May 19, 2014	\$199
174681*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 21, 2014	November 20, 2014	April 21, 2014	\$199
174675*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 16, 2014	November 20, 2014	April 16, 2014	\$199
171546*	Failure to submit CTL	Ameron Pipe Group	December 30, 2013	Not Submitted	March 30, 2014	\$199
171525*	Failure to submit CTL	Ameron Pipe Group	December 16, 2013	Not Submitted	March 16, 2014	\$199
171511*	Failure to submit CTL	Ameron Pipe Group	December 9, 2013	Not Submitted	March 9, 2014	\$199
171504*	Failure to submit CTL	Ameron Pipe Group	December 2, 2013	Not Submitted	March 2, 2014	\$199
171392*	Failure to submit CTL	Ameron Pipe Group	November 25, 2013	Not Submitted	February 23, 2014	\$199
171381*	Failure to submit CTL	Ameron Pipe Group	November 18, 2013	Not Submitted	February 16, 2014	\$199
171366*	Failure to submit CTL	Ameron Pipe Group	November 11, 2013	Not Submitted	February 9, 2014	\$199
171019	Failure to submit CTL	Ameron Pipe Group	November 8, 2013	Not Submitted	February 6, 2014	\$199
171355*	Failure to submit CTL	Ameron Pipe Group	November 4, 2013	Not Submitted	February 2, 2014	\$199
171014*	Failure to submit CTL	Ameron Pipe Group	October 30, 2013	Not Submitted	January 28, 2014	\$199
		Tiger Lines, LLC.				1
170472	Failure to submit CTL	Tiger Lines LLC.	January 15, 2014	Not Submitted	April 15, 2014	\$199
170475*	Failure to submit CTL	Tiger Lines LLC.	January 22, 2014	Not Submitted	April 22, 2014	\$199
170476*	Failure to submit CTL	Tiger Lines LLC.	January 28, 2014	Not Submitted	April 28, 2014	\$199
169887*	Failure to submit CTL	Tiger Lines LLC.	January 19, 2014	Not Submitted	April 19, 2014	\$199
170477	Failure to submit CTL	Tiger Lines LLC.	February 4, 2014	Not Submitted	May 5, 2014	\$199
170480	Failure to submit CTL	Tiger Lines LLC.	February 19, 2014	Not Submitted	May 20, 2014	\$199
170481*	Failure to submit CTL	Tiger Lines LLC.	March 5, 2014	Not Submitted	June 3, 2014	\$199
170482*	Failure to submit CTL	Tiger Lines LLC.	March 11, 2014	Not Submitted	June 9, 2014	\$199
170486	Failure to submit CTL	Tiger Lines LLC.	March 19, 2014	Not Submitted	June 17, 2014	\$199
170488*	Failure to submit CTL	Tiger Lines LLC.	March 24, 2014	Not Submitted	June 22, 2014	\$199
170491	Failure to submit CTL	Tiger Lines LLC.	March 25, 2014	Not Submitted	June 23, 2014	\$199
170492	Failure to submit CTL	Tiger Lines LLC.	April 1, 2014	Not Submitted	June 30, 2014	\$199
170493*	Failure to submit CTL	Tiger Lines LLC.	April 5, 2014	Not Submitted	July 4, 2014	\$199
170495	Failure to submit CTL	Tiger Lines LLC.	April 7, 2014	Not Submitted	July 6, 2014	\$199
170496*	Failure to submit CTL	Tiger Lines LLC.	April 11, 2014	Not Submitted	July 10, 2014	\$199
170497	Failure to submit CTL	Tiger Lines LLC.	April 15, 2014	Not Submitted	July 14, 2014	\$199
170499	Failure to submit CTL	Tiger Lines LLC.	April 17, 2014	Not Submitted	July 16, 2014	\$199
170500	Failure to submit CTL	Tiger Lines LLC.	April 23, 2014	Not Submitted	July 22, 2014	\$199
175354	Failure to submit CTL	Tiger Lines LLC.	April 29, 2014	Not Submitted	July 28, 2014	\$199
175356	Failure to submit CTL	Tiger Lines LLC.	May 7, 2014	Not Submitted	August 5, 2014	\$199
175358	Failure to submit CTL	Tiger Lines LLC.	May 13, 2014	Not Submitted	August 11, 2014	\$199
17536D	Failure to submit CTL	Tiger Lines LLC.	May 20, 2014	Not Submitted	August 18, 2014	\$199
174835	Failure to submit CTL	Tiger Lines LLC.	May 27, 2014	Not Submitted	August 25, 2014	\$199
175361	Failure to submit CTL	Tiger Lines LLC.	June 3, 2014	Not Submitted	September 1, 2014	\$199

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EDT Receipt	Violation	Location Name	Transaction Date	Submittal Date	Violation Date	Penalty Assessed
175364	Failure to submit CTL	Tiger Lines LLC.	June 11, 2014	Not Submitted	September 9, 2014	\$199
175365	Failure to submit CTL	Tiger Lines LLC.	June 17, 2014	Not Submitted	September 15, 2014	\$199
175367	Failure to submit CTL	Tiger Lines LLC.	June 25, 2014	Not Submitted	September 23, 2014	\$199
175369*	Failure to submit CTL	Tiger Lines LLC.	July 9, 2014	Not Submitted	September 7, 2014	\$199
175370°	Failure to submit CTL	Tiger Lines LLC.	July 11, 2014	Not Submitted	October 9, 2014	\$199
175371*	Failure to submit CTL	Tiger Lines LLC.	July 15, 2014	Not Submitted	October 13, 2014	\$199
175167	Failure to submit CTL	Tiger Lines LLC.	July 30, 2014	Not Submitted	October 28, 2014	\$199
175375	Failure to submit CTL	Tiger Lines LLC.	August 6, 2014	Not Submitted	November 4, 2014	\$199
175379*	Failure to submit CTL	Tiger Lines LLC.	August 19, 2014	Not Submitted	November 17, 2014	\$199

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

KNOWLEDGE OF HAULING AND MANIFESTING REQUIREMENTS

- 16. At the time of RESPONDENT's initial hauler registration and subsequently during the annual hauler registration renewal process, RESPONDENT was provided with instructions regarding the proper completion, retention, and delivery of CTL forms. At the time of RESPONDENT's initial registration and annually during the hauler registration renewal process, RESPONDENT received a hauler package containing the following: (1) instructions on transporting waste/used tires; (2) a complete list of hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and (3) a training compact disc on the proper storage and transportation of waste/used tires. RESPONDENT was also sent a CTL Guidance Manual, explaining in detail how to properly complete the CTL form, including the requirement to "manifest" (to document on the CTL form) all waste and used tire pickups and deliveries, and a Hauler Alert dated November 18, 2011, informing RESPONDENT of the zero tolerance policy applicable to transporting waste tires to unauthorized locations.
- 17. On July 10, 2015, CALRECYCLE issued RESPONDENT Streamlined Penalty Letter 2015-000554-PEN (SPL). The SPL was received by RESPONDENT on July 13, 2015. The SPL offered RESPONDENT an opportunity to resolve the violations through settlement. The letter explained RESPONDENT's violations and offered an opportunity to avoid the cost and time of the administrative legal process by having RESPONDENT agree to the

streamlined penalty process. RESPONDENT was offered a streamlined penalty in the amount of \$2,500.00. RESPONDENT was given 15 days from the receipt of the SPL to respond to CALRECYCLE.

- 18. On August 4, 2015, CALRECYCLE issued RESPONDENT a reminder letter advising RESPONDENT that CALRECYCLE needed a response on the streamlined penalty offer and extended the response date to August 18, 2015.
- 19. On August 31, 2015, a CALRECYCLE Program Technician with the Tire Hauler Compliance Unit contacted RESPONDENT via telephone. During the call, Ms. Kitty Green, an agent and/or employee of RESPONDENT, stated that she felt the SPL had been previously resolved.
- 20. Immediately following the August 31, 2015 telephone call, Keith Cambridge, Supervisor of the Tire Hauler Compliance Unit for CALRECYCLE, sent an email message to Ms. Green emphasizing that the violations cited in the SPL had not been resolved and that SPL was still active. Ms. Green responded that she would discuss the SPL with her supervisor. No further response was made by RESPONDENT.

STIPULATED CONCLUSIONS OF LAW

The Parties stipulated to the following conclusions of law:

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

STIPULATED ORDER

The Parties stipulate to the following terms and conditions in full and complete settlement of this matter:

22. Pursuant to the terms and conditions of this Stipulation, and subject to the limitations hereunder, RESPONDENT stipulates to an administrative penalty against RESPONDENT and in favor of CALRECYCLE in the sum of \$9,950.00 for the violations set forth in this Stipulation. Payment of the penalty shall be satisfied in the following manner:

- (a) RESPONDENT shall pay \$5,000.00 to CALRECYCLE in accordance with the following:
 - i. RESPONDENT shall make installment payments to CALRECYCLE of \$500.00, each month with the first payment due on the 60th day after the effective date of the Administrative Decision issued pursuant to this Stipulation, until the total amount of said payment totals \$5,000.00.
 - ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due date, 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 this Stipulation. The partial default amount due shall be calculated to include the amount owed from the missing payment(s) plus a 10% late penalty and interest. CALRECYCLE may seek recovery of this amount through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
 - iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, 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.
 - iv. \$4,950.00 of this administrative penalty shall be stayed and held in abeyance for a period of three years. The stayed penalty shall be deemed terminated and shall not be paid by RESPONDENT to CALRECYCLE following the three-year period absent a default as described.
- 23. RESPONDENT shall maintain a manifest error rate of 7% or less for the entire abeyance period to avoid a full default.
- 24. RESPONDENT shall comply with all other laws related to waste tire storage and waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that is not described by a separate provision of this Stipulation shall constitute a partial default of this Stipulation.

25. If CALRECYCLE determines that RESPONDENT has violated any waste tire storage laws, or waste tire hauler laws by creating a new waste tire facility (WTF) with any amount of waste tires onsite, CALRECYCLE will be required to inspect the WTF at an increased frequency, at least monthly, until RESPONDENT comes into compliance.

RESPONDENT will grant access for these additional inspections, and will reimburse CALRECYCLE for the cost of those inspections (including time preparing for the inspection, traveling to the site, and preparing and writing any Inspection Report). Additionally, after compliance has again been regained, CALRECYCLE will inspect the WTF twice a year for the remainder of the abeyance period, and RESPONDENT will reimburse CALRECYCLE for the additional inspections (including time preparing for the inspection, traveling to the site, and preparing and writing any Inspection Report). Failure to grant access to inspectors, or failure to reimburse CALRECYCLE for an inspection within 30 days of an invoice shall be deemed a full default of the Stipulation.

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

- 26. **Default**: If RESPONDENT defaults under any of the terms of this Stipulation, CALRECYCLE shall send a Notice of Default to RESPONDENT; said Notice of Default shall state the paragraphs or provisions of this Stipulation of which RESPONDENT is in default and the abeyance amount owed. RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default and, if appropriate, shall issue a Supplemental Decision regarding any remaining penalties due.
 - Full Default: A full default shall result in an order for the remittance of the entire remaining penalty amount due plus the entire remaining amount held in abeyance.
 - ii. Partial Default: In the event of a partial default, CALRECYCLE shall state the amount of abeyance due, in accordance with the penalty amounts prescribed in

Public Resources Code sections 42850, 42850.1, 42962 and 14 CCR sections 18429 and 18464, when it sends its default notice. Upon review of counter arguments, CALRECYCLE shall either advise RESPONDENT that it has determined no default occurred, or shall issue an invoice ordering RESPONDENT to pay the specific penalty within 30 days. A partial default shall apply to any violations of waste tire storage or waste tire hauler laws not specifically stated as a full default above set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title 14 of the CCR. Penalties for partial default shall be calculated as a "second offense." Failure to remit payment of a partial default shall constitute a full default.

- 27. Nothing shall be implied in this Stipulation that shall preclude CALRECYCLE from using any enforcement mechanism, whether administrative, civil, or criminal, should RESPONDENT commit future violation of waste tire storage laws or waste tire hauler laws.
- 28. RESPONDENT shall abide by all of the terms and conditions set forth in this Stipulation.
- 29. No covenant, promise, term, condition, breach or default of or under this Stipulation shall be deemed to have been waived except as expressly so stated in writing by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by RESPONDENT under this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or default by RESPONDENT.
- 30. RESPONDENT has freely and voluntarily entered into this Stipulation and have been afforded the opportunity to consult with counsel prior to entering into this Stipulation. It is expressly understood and agreed that no representations or promises of any kind, other than as contained herein, have been made by any party to induce any other party to enter into this Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise changed except by a writing executed by each of the parties hereto. Each party hereto agrees to execute and deliver any and all documents and to take any and all actions necessary or appropriate to consummate this Stipulation and to carry out its terms and provisions.

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- Except as expressly provided herein, RESPONDENT waives the right in the entitled matter to a hearing, any and all appeals, and any and all rights that may be afforded pursuant to the PRC, the Administrative Procedure Act, or any other provision of law regarding the express provisions of this Stipulation.
- This Stipulation shall be binding and inure to the benefit of the successors, heirs 32. and assigns of the respective parties hereto.
- 33. This Stipulation and the corresponding Administrative Decision to be issued constitute the entire understanding of the parties concerning the settlement of this proceeding. There are no restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly set forth herein or contained in separate written documents delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it has not relied upon any restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly contained herein.

	To: purposes of this outpuration, facsimile signatures will be treated as originals				
2	until the applicable page(s) bearing non-facsimile signatures have been received by				
3	CALRECYCLE				
4	35. The effective date of this Stipulation is the date of issuance of the Administrative				
5	Decision.				
6	and ID				
7	Dated: 6/24/6				
8	MARK DE BIE Deputy Director				
9	DEPARTMENT OF RESOURCES, RECYCLING AN RECOVERY (CALRECYCLE)	D			
10	NEOOVEN (ONENEOVOE)				
11					
12	Dated: CATHERINE V. NYSTROM				
13	Attorney for				
14	DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE))			
15					
16	16 11 16				
17	Dated: 6/20/16.				
18	ANTHONY MATTIOLI WILSON WAY TIRE COMPANY, INC.				
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20	1 1 1 1 1				
2.	Dated: 6/20/16 / 10/10				
22	WILLIAM WALLACE Attorney for				
23	WILSON WAY TIRE COMPANY, INC.				
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