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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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11 In the matter of:

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

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13
14
15 Bridgestone Americas Tire Operations,
LLC

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

16
17
18 TPID NO.:

AGENCY NO:

19 INTRODUCTION AND PROCEDURAL HISTORY

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21 The parties to this STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION
22 FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation) are CALRECYCLE
and Bridgestone Americas Tire Operations, LLC, d.b.a. GCR Tires & Service
23 (RESPONDENT). On February 13, 2017, CALRECYCLE issued an ADMINISTRATIVE
24 COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Administrative
25 Complaint) to RESPONDENT, which included penalties in the amount of forty-five thousand
26 dollars (\$45,000). RESPONDENT was provided with 15 days from the date of receipt of the
27 Administrative Complaint to request a hearing and file a "Notice of Defense/Request for
28 Hearing" with CALRECYCLE to refute the allegations contained therein. RESPONDENT

1 requested a hearing on February 23, 2017. A hearing was scheduled for May 17, 2017, in
2 Sacramento, California.

3 On March 14, 2017, a Notice of Hearing Officer Assignment & Informal Hearing
4 Procedures were issued to the Parties. An initial Telephonic Status Conference was held on
5 May 4, 2017, for the Parties to discuss the status of the case. Following the initial Telephonic
6 Status Conference, the hearing was continued to July 13, 2017 as the Parties were engaged in
7 meaningful settlement negotiations.

8 On June 20, 2017, at RESPONDENT's request, technical staff for RESPONDENT and
9 CALRECYCLE met telephonically to discuss regulatory requirements and potential
10 improvements that could be applied to RESPONDENT's operations for enhanced compliance.

11 On June 26, 2017, the Parties appeared at a second Telephonic Status Conferences
12 was held, good cause was presented, and the hearing was further continued to September 1,
13 2017, as the Parties continued to move forward with good faith settlement discussions.

14 On August 30, 2017, the Parties appeared at a third Telephonic Status conference, and
15 for good cause presented, the hearing was thereafter continued to November 16, 2017. On
16 October 19, 2017, RESPONDENT provided CALRECYCLE with its new Standard Operating
17 Procedure designed to standardize and improve management of California Uniform Waste and
18 Used Tire Manifests at RESPONDENT's California locations.

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

23
24 **STIPULATED FACTUAL FINDINGS**

25 1. The Administrative Complaint was executed by Heather L. Hunt, Attorney III for
26 CALRECYCLE, acting in her official capacity.

27 2. CALRECYCLE has the authority to permit, regulate, and conduct enforcement
28 actions regarding waste tire facilities and waste tire haulers within the State of California

1 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in
2 Title 14 of the California Code of Regulations ("CCR").

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

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

13 5. Pursuant to PRC section 42961.5(c)(2):

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

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

24 6. Pursuant to 14 CCR section 18459.2.1:

25 (a) The waste tire hauler shall submit the completed original
26 CTL Form to the Department [CALRECYCLE] within ninety (90)
27 days of the load shipment. The Manifest Form shall be in the
28 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

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

9 7. 14 CCR section 18459(c)(1) requires waste or used tire haulers, hauling
10 any amount of waste or used tires at any one time in a registered vehicle, to comply
11 with the Waste Tire Manifest System.

12 8. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall
13 submit the completed original CTL form to the Department within ninety (90) days of
14 the load shipment..."

15 9. 14 CCR section 18459(b) requires the CTL form be completed.

16 10. 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a
17 registered waste tire hauler shall complete a new CTL form for each pick-up or delivery of any
18 waste or used tires, shall not transport waste or used tires without a properly completed CTL
19 form, shall not transport waste or used tires without having a completed copy of the CTL form
20 in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL
21 form with the waste or used tire generator or end-use facility, and shall keep a copy of the
22 completed CTL form.

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

28 12. RESPONDENT has been a registered tire hauler since 1999.

13. On October 6 and July 26, 2015, Tire Enforcement Agency (TEA) Inspectors with
the San Joaquin County Environmental Health Department conducted onsite inspections of the
the United Parcel Service facility at 1532 North Broadway Avenue, Stockton CA (TPID
#1326792) and the R&S Trucking facility at 1688 Almar Parkway, Santa Rosa CA (TPID

1 #1293446), respectively. During these inspections, TEA Inspectors reported observing
2 multiple CTL forms for loads that occurred over 90 days prior which had not been submitted to
3 CALRECYCLE. Subsequent to these inspections, CALRECYCLE further investigated the
4 matter and verified that RESPONDENT did not submit 18 CTL forms to CALRECYCLE within
5 the 90-day timeframe required by PRC section 42961(c)(2).

6 14. CALRECYCLE alleges that RESPONDENT failed to submit 18 complete and
7 accurate CTL forms within the quarterly-required timeframe in violation of PRC section
8 42961.5(c)(2).

9
10 **STIPULATED ORDER**

11 The Parties agree and understand that this Stipulated Order is a compromise of
12 disputed claims made to avoid prolonged litigation and in furtherance of the public interest, and
13 that payment or action for herein is not to be construed as an admission of liability by
14 RESPONDENT. The Parties stipulate to the following terms and conditions in full and
15 complete settlement of this matter:

16 15. Pursuant to the terms and conditions of this Stipulation, and subject to the
17 limitations hereunder, RESPONDENT stipulates to an administrative penalty against
18 RESPONDENT and in favor of CALRECYCLE in the sum of forty-five thousand dollars
19 (\$45,000) for the violations set forth in this Stipulation. Payment of the penalty shall be
20 satisfied in the following manner:

21 (a) RESPONDENT shall pay twenty-five thousand dollars (\$25,000) to
22 CALRECYCLE by the 90th day after the effective date of the Administrative Decision issued
23 pursuant to this Stipulation in accordance with the following:

- 24 i. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
25 date, and if RESPONDENT fails to cure the missed payment(s) within twenty
26 (20) days of said missed payment RESPONDENT shall be found in partial
27 default of this Stipulation. The partial default amount due shall be calculated
28 to include the amount owed from the missing payment(s) plus a 10% late

1 penalty and interest. CALRECYCLE may seek recovery of this amount
2 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.

3 ii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
4 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
5 place as CALRECYCLE or its agent may from time to time designate in
6 writing.

7 iii. The remaining twenty thousand dollars (\$20,000) of the overall \$45,000.00
8 of this administrative penalty shall be stayed and held in abeyance for a
9 period of three years. The stayed penalty shall be deemed terminated and
10 shall not be paid by RESPONDENT to CALRECYCLE following the three-
11 year period absent a default as described.

12 16. RESPONDENT shall maintain a manifest error rate of ten percent (10%) or less
13 for the entire abeyance period. The error rate shall be calculated annually; failure to meet the
14 10% error rate shall result in a partial default of this Stipulation.

15 17. RESPONDENT shall submit all CTLs for the two specific locations
16 (TPID#1326792 and TPID#1293446) to CALRECYCLE via Electronic Data Transfer (EDT) for
17 a twelve (12) month period following the effective date the accompanying Administrative
18 Decision.

19 18. RESPONDENT shall comply with all other laws related to waste tire storage and
20 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
21 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that
22 is not described by a separate provision of this Stipulation shall constitute a partial default of
23 this Stipulation.

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

26 20. **Default:** If RESPONDENT defaults under any of the terms of this Stipulation,
27 CALRECYCLE shall send a Notice of Default to RESPONDENT; said Notice of Default shall
28 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

1 of the Notice of Default to provide evidence refuting CALRECYCLE's claim of default. After a
2 review of the evidence provided by RESPONDENT, CALRECYCLE shall make a
3 determination regarding the default and, if appropriate, shall issue a Supplemental Decision
4 regarding any remaining penalties due.

- 5 i. **Full Default:** A full default shall result in an order for the remittance of the entire
6 remaining penalty amount due plus the entire remaining amount held in
7 abeyance.
- 8 ii. **Partial Default:** In the event of a partial default, CALRECYCLE shall state the
9 amount of the stipulated penalties held in abeyance due, calculated in
10 accordance with the penalty amounts prescribed in Public Resources Code
11 sections 42850, 42850.1, 42962 and 14 CCR sections 18429 and 18464, when
12 it sends its default notice. Upon review of counter arguments, CALRECYCLE
13 shall either advise RESPONDENT that it has determined no default occurred, or
14 shall issue an invoice ordering RESPONDENT to pay the specific penalty within
15 30 days. A partial default shall apply to any violations of waste tire storage or
16 waste tire hauler laws not specifically stated as a full default above set forth in
17 PRC section 42800 et seq., PRC section 42950 et seq., and Title 14 of the
18 CCR. Penalties for partial default resulting from failure to submit CTLs or
19 manifests shall be calculated as a "third offense" pursuant to PRC section
20 42961.5 and 14 CCR section 18464. Failure to remit payment of a partial
21 default shall constitute a full default.

22 21. Nothing shall be implied in this Stipulation that shall preclude CALRECYCLE
23 from using any enforcement mechanism, whether administrative, civil, or criminal, should
24 RESPONDENT commit future violation of waste tire storage laws or waste tire hauler laws.

25 22. RESPONDENT shall abide by all of the terms and conditions set forth in this
26 Stipulation.

27 23. No covenant, promise, term, condition, breach or default of or under this
28 Stipulation shall be deemed to have been waived except as expressly so stated in writing

1 by CALRECYCLE. A waiver by CALRECYCLE of any breach or default by RESPONDENT
2 under this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or
3 default by RESPONDENT.

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

12 25. Except as expressly provided herein, RESPONDENT waives the right in the
13 entitled matter to a hearing, any and all appeals, and any and all rights that may be
14 afforded pursuant to the PRC, the Administrative Procedure Act, or any other provision of law
15 regarding the express provisions of this Stipulation.

16 26. This Stipulation shall be binding and inure to the benefit of the successors, heirs
17 and assigns of the respective parties hereto.


18 27. This Stipulation and the corresponding Administrative Decision to be issued
19 constitute the entire understanding of the parties concerning the settlement of this proceeding.
20 There are no restrictions, promises, warranties, covenants, undertakings, or representations
21 other than those expressly set forth herein or contained in separate written documents
22 delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it
23 has not relied upon any restrictions, promises, warranties, covenants, undertakings, or
24 representations other than those expressly contained herein.

25 28. For purposes of this Stipulation, facsimile signatures will be treated as originals
26 until the applicable page(s) bearing non-facsimile signatures have been received by
27 CALRECYCLE

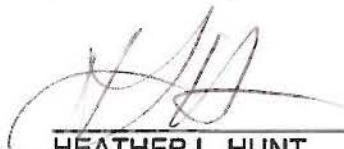
28 29. The effective date of this Stipulation is the date of issuance of the Administrative
Decision.

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Dated: 11/13/17


MARK DE BIE
Deputy Director
DEPARTMENT OF RESOURCES, RECYCLING AND
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Dated: 11/7/17


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