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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 In the matter of:

Case No. IH17-009-TIR

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12
13 CB TYRES RECYCLING RESOURCES,
14 LLC.

ADMINISTRATIVE DECISION
PURSUANT TO STIPULATION FOR
WASTE TIRE STORAGE AND WASTE
TIRE HAULER ADMINISTRATIVE
PENALTIES

15
16 RESPONDENT

PUBLIC RESOURCES CODE SECTION
42800, ET SEQ

17 TPID NO.: 1000418-01

18 AGENCY NO: 2016-011194-ADC

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20 INTRODUCTION AND PROCEDURAL HISTORY

21 This ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE AND WASTE
22 HAULER ADMINISTRATIVE PENALTIES (Decision) is based on the STIPULATION FOR
23 ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE STORAGE AND WASTE
24 TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation) signed by Tony Tejada for CB
25 Tyres Recycling Resources, LLC (RESPONDENT) on May 30, 2018, and Kenneth S.
26 Kawabata, Attorney for CB Tyres Recycling Resources, LLC on June 8, 2018.
27 The parties to this Administrative Decision are CALRECYCLE and CB Tyres Recycling
28 Resources, LLC., (RESPONDENT) (hereafter, referred to collectively as "the parties"). On

1 May 17, 2017, CALRECYCLE issued RESPONDENT an ADMINISTRATIVE
2 COMPLAINT FOR WASTE TIRE STORAGE AND WASTE HAULER ADMINISTRATIVE
3 PENALTIES (Administrative Complaint), which sought penalties in the amount of \$178,500.00.
4 RESPONDENT was served the Administrative Complaint via substitute service on May 22,
5 2017, and copies were mailed by U.S Mail to RESPONDENT on this same day.
6 RESPONDENT was provided with 25 days from the date of receipt of the Administrative
7 Complaint to request a hearing and file a "Notice of Defense/Request for Hearing" with
8 CALRECYCLE to refute the allegations contained therein. RESPONDENT filed a "Notice of
9 Defense/Request for Hearing" on May 26, 2017, and a hearing was scheduled for August 10,
10 2017, in Riverside, California. That hearing date was continued once for good cause to
11 October 3, 2017, and again a second time to December 14, 2017, in Los Angeles, California.

12 Following a telephonic status conference with the Hearing Officer on November 21,
13 2017, the Hearing Officer converted the December 14th hearing date to a settlement
14 conference. On December 14, 2017, the Parties appeared at the scheduled settlement
15 conference and agreed to the settlement terms memorialized herein.

16 In order to avoid the time, expense, and uncertainties attendant with litigation, the
17 parties submit the Stipulation as final resolution of the matter. In submitting the Stipulation,
18 the parties understand, acknowledge, and agree to the facts and terms of the Stipulation as set
19 forth.

20 21 FACTUAL FINDINGS

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

24 2. CALRECYCLE has the authority to permit, regulate, and conduct enforcement
25 actions regarding waste tire facilities and waste tire haulers within the State of California
26 pursuant to PRC sections 42800 et seq., 42950 et seq. and attendant regulations contained in
27 Title 14 of the California Code of Regulations ("CCR").

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1 **Alleged Facts In Support of Waste Tire Storage Violations**

2 3. PRC section 42823 states:

3 Except as provided in Section 42823.5 [Exemption: cement manufacturing plants;
4 application procedures: compliance], no person shall establish a new major waste tire
5 facility or expand an existing minor waste tire facility unless the person has obtained a
6 major waste tire facility permit issued by the [Department]

7 (Pub. Resources Code § 42823.)

8 4. Pursuant to PRC section 42824, "[I]t is unlawful to direct or transport waste tires
9 to a major waste tire facility or to accept waste tires at a major waste tire facility unless the
10 operator has obtained a major waste tire facility permit."

11 5. PRC section 42808(b) defines a waste tire facility as:
12 . . . a location, other than a solid waste facility permitted pursuant to this division that
13 receives for transfer or disposal less than 150 tires per day averaged on an annual
14 basis, where, at any time, waste tires are stored, stockpiled, accumulated, or discarded.
15 "Waste tire facility" includes all of the following:

16 (a) "Existing waste tire facility" means a waste tire facility which is receiving, storing, or
17 accumulating waste tires, or upon which waste tires are discarded, on January 1, 1990.

18 (b) "Major waste tire facility" means a waste tire facility where, at any time, 5,000 or
19 more waste tires are or will be stored, stockpiled, accumulated, or discarded.

20 (c) "Minor waste tire facility" means a waste tire facility where, at any time, 500 or more,
21 but less than 5,000, waste tires are or will be stored, stockpiled, accumulated, or
22 discarded. However, a "minor waste tire facility" does not include a tire dealer or an
23 automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who
24 stores waste tires on the dealer's or dismantler's premises for less than 90 days if not
25 more than 1,500 total used or waste tires are ever accumulated on the dealer's or
26 dismantler's premises.

27 (Pub. Resources Code § 42808.)

28 6. 14 CCR section 18420 requires every operator of a waste tire facility to acquire a
waste tire facility permit unless the facility falls into an exception or exemption category.

7. Pursuant 14 CCR section 17225.822,

"Exempt or Excluded" means a waste tire facility storing a total of 500 or more waste
tires, as authorized by Public Resources Code sections 42823.5(a) or 42831, or as
specified in section 18420(a) of Title 14 of the California Code of Regulations, or meets

1 the requirements set forth in section 18420.1 or 18431.3 of Title 14 of the California
2 Code of Regulations. An exempt or excluded waste tire facility is not required to obtain
a waste tire facility permit.

3 (Cal. Code Regs., tit. 14, sec. 17225.822.)

4 8. 14 CCR section 18420.1(c) sets forth criteria that a waste tire facility must satisfy
5 to qualify as a collection location excluded from the waste tire facility permitting requirements.

6 Those criteria are:

7 (1) All waste and used tires onsite shall be kept in closed containers except while
8 actively unloading, sorting, or loading.

9 (2) Containers shall be kept locked when not being unloaded, sorted, or loaded.

10 (3) Containers shall, at all times, be kept on or as part of a trailer for which a current,
11 valid license plate has been issued by the Department of Motor Vehicles or an
equivalent agency in another state or country.

12 (4) A waste or used tire transported to or from a collection location shall be manifested
in accordance with Article 8.5 of this Chapter.

13 (5) Containers shall not remain onsite longer than 90 days.

14 (6) The total number of waste or used tires at a collection location, including, but not
15 limited to, waste or used tires located in closed containers and on the ground, shall not
exceed 4,999.

16 (Cal. Code Regs., tit. 14, sec. 18420.1(c).)

17 9. At no time has RESPONDENT been in possession of a major waste tire facility
18 permit. RESPONDENT has attempted to operate as a collection location subject to meeting
19 the requirements described above as set forth in 14 CCR section 18420.1. RESPONDENT is
20 aware of the collection location requirements, and, in fact, has been ordered to pay penalties in
21 the past for failing to meet collection location storage requirements, specifically for storing tires
22 large amounts of waste tires on the ground outside of loading, unloading or sorting.

23 10. On April 20, 2016, CALRECYCLE inspectors conducted an inspection of
24 RESPONDENT's waste tire facility located at 21801 Barton Road, Grand Terrace, California
25 92313 (the site), as documented in CALRECYCLE's Survey and Inspection Report (Inspection
26 Report) number IW-1038033. During that inspection, the inspectors observed approximately
27 26,667 waste tires being stored on site not during loading unloading or sorting of said tires.
28 The inspectors, therefore, determined the site was not meeting the requirements set forth in 14

1 CCR section 18420.1(c), but rather was operating as an unpermitted major waste tire facility in
2 violation of 14 CCR section 18420, and PRC section 42823. A Notice of Violation (NOV) was
3 issued, and RESPONDENT was given a compliance deadline of May 13, 2016, to remove all
4 waste tires from the ground and store them in enclosed containers and/or dispose of the tires
5 properly, and to reduce the waste tire storage to 4,999 or fewer.

6 11. A review of Comprehensive Trip Logs showed that RESPONDENT was storing,
7 and had accepted waste tires while this major waste tire facility was storing, in excess of
8 20,000 waste tires on the ground at least as early as April 19, 2016, continuing through April
9 21, 2016, in violation of PRC sections 42823 and 42824.

10 12. On May 23, 2016, CALRECYCLE's inspectors conducted a follow-up inspection
11 of the site as described in Inspection Report number IW-1039563, and determined that the site
12 continued as an unpermitted major waste tire facility with approximately 31,089 waste tires
13 stored on site in violation of PRC section 42823 and 14 CCR section 18420. A review of
14 Comprehensive Trip Logs showed that RESPONDENT had operated this unpermitted major
15 waste tire facility with an amount of waste tires exceeding 20,000, and had accepted waste
16 tires at this unpermitted major waste tire facility since at least May 22, 2016, through at least
17 May 24, 2016, in violation of PRC sections 42823 and 42824.

18 13. On July 18, 2016, CALRECYCLE issued correspondence to RESPONDENT, RE:
19 Violation of California Waste Tire Laws – CB Tyres Recycling Resources, LLC, TPID No
20 1000418. This letter reiterated to RESPONDENT that because the site failed to meet the
21 requirements of a collection location as defined by 14 CCR section 18420.1, the site was
22 considered an unpermitted waste tire facility.

23 14. On August 11, 2016, CALRECYCLE inspectors conducted a follow-up inspection
24 of the site, as described in Inspection Report number IW-1042939. The inspectors determined
25 that approximately 16,267 waste tires were still being stored onsite, continuing the unpermitted
26 major waste tire facility in violation of PRC section 42823, and 14 CCR section 18420. A
27 review of Comprehensive Trip Logs showed that RESPONDENT had operated this
28 unpermitted major waste tire facility with an amount of waste tires exceeding 10,000, and had

1 accepted waste tires at this unpermitted major waste tire facility since at least August 10, 2016,
2 through at least August 12, 2016, in violation of PRC sections 42823 and 42824.

3 15. On September 14, 2016, CALRECYCLE issued Cleanup and Abatement Order
4 number 2016-011058-CAO (CAO) to the RESPONDENT. The CAO ordered RESPONDENT
5 to reduce the number of waste and used tires on the site to zero within 30 days from the date
6 of service of the CAO, and required all waste and used tires be removed by a registered waste
7 tire hauler as defined by PRC section 42950 et seq.

8 16. On October 25, 2016, CALRECYCLE inspectors conducted a follow-up
9 inspection of the site as documented in Inspection Report Number IW-1046399. The
10 inspectors determined that approximately 19,989 waste tires were being stored at the site,
11 continuing the unpermitted major waste tire facility, in violation of the CAO, 14 CCR section
12 18420 and PRC section 42823. A review of Comprehensive Trip Logs showed that
13 RESPONDENT had operated this unpermitted major waste tire facility with an amount of waste
14 tires exceeding 10,000, and had accepted waste tires at this unpermitted major waste tire
15 facility since at least October 24, 2016, through at least October 25, 2016, in violation of PRC
16 sections 42823 and 42824.

17 **Alleged Facts In Support of Waste Tire Hauler Violations**

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

22 18. PRC section 42951(b) requires that a registered waste and used tire hauler shall
23 only transport waste or used tires to a facility that is permitted, excluded, exempted, or
24 otherwise authorized by the board, by statute, or by regulation, to accept waste and used tires,
25 or to a facility that lawfully accepts waste or used tires for reuse or disposal.

26 19. RESPONDENT first became a registered waste tire hauler on March 30, 1998,
27 and continued to remain a registered waste tire hauler through the 2016 calendar year.

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1 20. At the time of RESPONDENT's initial hauler registration and subsequently during
2 the annual hauler registration renewal process, RESPONDENT was provided with instructions
3 regarding the proper completion, retention, and delivery of CTL forms. At the time of
4 RESPONDENT's initial registration and annually during the hauler registration renewal
5 process, RESPONDENT received a hauler package containing the following: (1) instructions
6 on transporting waste/used tires; (2) a complete list of hauler and manifesting regulations (Title
7 14, California Code of Regulations, Chapter 6); and (3) a training compact disc on the proper
8 storage and transportation of waste/used tires. RESPONDENT was also sent a CTL Guidance
9 Manual, explaining in detail how to properly complete the CTL form, including the requirement
10 to "manifest" (to document on the CTL form) all waste and used tire pickups and deliveries,
11 and a Hauler Alert dated November 18, 2011, informing RESPONDENT of the zero-tolerance
12 policy applicable to transporting waste tires to unauthorized locations.

13 21. As described in the paragraphs above, on the dates between April 19, 2016,
14 through April 21, 2016, May 22 through May 24, 2016, August 11, 2016, and October 25,
15 2016, RESPONDENT's site was neither permitted, excluded, exempt or otherwise authorized
16 by the Department to receive waste tires as a major waste tire facility. RESPONDENT was
17 operating as a collection location pursuant to 14 CCR section 18420.1 and was therefore only
18 authorized to have 4,999 waste tires onsite.

19 22. CALRECYCLE's audit of Comprehensive Trip Log (CTL) receipts completed by
20 RESPONDENT in CALRECYCLE's Waste Tire Management System (WTMS) database
21 concludes that between April 19, 2016 and August 21, 2016, RESPONDENT transported at
22 least 32 loads of waste and used tires to the site while the site was operating as an
23 unpermitted major waste tire facility and therefore as an unauthorized location, in violation of
24 PRC section 42951(b).

CONCLUSIONS OF LAW

Allegations of Prior Violations

28 23. On November 8, 2005, the CIWMB ordered RESPONDENT to pay an

1 administrative penalty in the amount of \$12,500.00 for storage violations at the site.

2 24. On November 11, 2009, the CIWMB ordered RESPONDENT to pay
3 administrative penalties in the amount of \$15,000.00, with an additional \$25,000.00 suspended
4 and stayed for a period of two (2) years absent a default, for storage violations at the site.

5 RESPONDENT successfully completed its two (2) year probation.

6 25. On February 2, 2012, CALRECYCLE ordered RESPONDENT to pay penalties in
7 the amount of \$500.00 for violations of PRC 42951(b).

8 **Allegations of Specific Violations**

9 26. On at least 11 separate occasions, RESPONDENT violated PRC section 42823
10 by creating an unpermitted major waste tire facility without first obtaining a waste tire facility
11 permit.

12 27. On at least 11 separate occasions, RESPONDENT violated PRC section 42824
13 by accepting waste and used tires at an unpermitted major waste tire facility

14 28. On at least 32 separate occasions, RESPONDENT violated PRC section
15 42951(b) by transporting waste and used tires to an unpermitted major waste tire facility

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17 **ORDER**

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

20 30. Pursuant to the terms and conditions of the Stipulation, and subject to the
21 limitations hereunder, RESPONDENT stipulates to an administrative penalty against
22 RESPONDENT and in favor of CALRECYCLE in the sum of \$156,000.00 for the alleged
23 violations set forth in the Stipulation. Payment of the penalty shall be satisfied in the following
24 manner:

25 (a) RESPONDENT shall pay \$56,000.00 to CALRECYCLE in accordance with the
26 following:

- 27 i. RESPONDENT shall make a single, lump sum payment to CALRECYCLE of
28 \$3,200.00, due on the 60th day after service of the Administrative Decision

1 ("Decision"), then monthly payments of \$1,100.00. The first monthly
2 payment will be due August 1, 2018, pursuant to the Stipulation.

- 3 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
4 date, and if RESPONDENT fails to cure the missed payment(s) prior to the
5 1st day of the month following said missed payment, RESPONDENT shall be
6 found in partial default of the Stipulation. The partial default shall be
7 calculated as the amount owed from the missing payment(s) plus a 10% late
8 penalty and interest. CALRECYCLE may seek recovery of the amount
9 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
- 10 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
11 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
12 place as CALRECYCLE or its agent may from time to time designate in
13 writing.

14 31. The remainder of the penalty, \$100,000.00, shall be held in abeyance for a
15 period of five years. In the event of a violation for which a partial penalty is applicable, portions
16 of the remainder shall become immediately due and payable, as described herein, pursuant to
17 the procedure set forth in Paragraph 37(a). In the event of a violation for which a full default
18 penalty is applicable, RESPONDENT may appeal any Supplemental Decision ordered by
19 CALRECYCLE pursuant to the procedure set forth in Paragraph 37(b). The abeyance amount
20 shall cease to be due five years from the date of issuance of this Decision.

21 32. RESPONDENT shall submit manifest forms to CALRECYCLE within 90 days of
22 tire shipments pursuant to 14 CCR 18459.2.1; failure to meet this requirement shall result in a
23 partial default.

24 33. RESPONDENT shall maintain a manifest error rate of less than seven percent.
25 Manifests shall be reviewed, and the error rate shall be calculated, over a 12-month period,
26 beginning from the first date of the issuance of this Decision. Failure to meet this requirement
27 for each 12-month period shall result in a separate \$1,000 partial penalty.

28 34. RESPONDENT shall submit an Electronic Data Transfer (EDT) application within

1 30 days of the issuance of the Decision. RESPONDENT shall submit all manifests
2 electronically through EDT for the abeyance period. Failure to meet this requirement shall
3 result in a partial penalty.

4 35. RESPONDENT shall not operate or own a waste tire facility without first
5 obtaining a major WTF permit from CALRECYCLE for the specific location on which tires are
6 located. Failure to meet this requirement shall result in a full default.

7 36. RESPONDENT may continue to operate as a waste tire hauler. RESPONDENT
8 remains responsible for obtaining a waste tire hauler registration every calendar year. Hauling
9 waste or used tires without possessing a waste tire hauler registration shall result in a full
10 default.

11 37. RESPONDENT shall comply with all other laws related to waste tire storage and
12 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
13 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that
14 is not described by a separate provision of the Stipulation shall constitute a partial default of
15 the Stipulation.

16 38. The Parties agree the following shall apply to a default of the Stipulation:
17 **Default:** Upon observing a default of the Stipulation, CALRECYCLE shall send a Notice of
18 Default to RESPONDENT; said Notice of Default shall state the paragraphs or provision of the
19 Stipulation of which RESPONDENT is in default and the abeyance amount owed.
20 RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to
21 provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence
22 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default
23 and if appropriate shall issue a Supplemental Decision ordering RESPONDENT to immediately
24 pay any penalties due, as those penalties are described within the Stipulation.

25 (a) Any partial penalty ordered in a Supplemental Decision shall be calculated as a
26 "2nd & subsequent" act for negligent violations or a "3rd & subsequent" act for
27 intentional violations described in 14 CCR section 18429, and as "3rd and
28 Subsequent Offenses" for violations described in 14 CCR section 18464.

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(b) RESPONDENT may appeal the issuance of a Supplemental Decision to the Director of CALRECYCLE only in the event a Supplemental Decision was issued for a full default. Any hearing on such appeal shall be heard by a Hearing Officer, in Sacramento, and shall be limited to evidence of liability only.

39. Nothing shall be implied in the 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.

40. RESPONDENT shall abide by all of the terms and conditions set forth in the Stipulation.

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

Dated: 6/12/10



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