

1 ELLIOT BLOCK SBN 116999
Chief Counsel
2 HEATHER L. HUNT SBN 225861
3 CATHERINE V. NYSTROM SBN 278265
Attorneys for Complainant
4 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
5 P. O. Box 4025
6 Sacramento, CA 95812-4025
Telephone: (916) 341- 6068
7 Facsimile: (916) 319-7677

8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11 In the matter of:

12 BQT, INC aka Bob's Quality Tires

13
14 RESPONDENT

15
16 TPID NO.: 1547407

Case No. IH18-007-TIR

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

PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2017-011199-ADC

17
18
19
20 INTRODUCTION

21 The California Department of Resources Recycling and Recovery (hereafter,
22 "CALRECYCLE") has authority to regulate and conduct enforcement actions against waste tire
23 facilities and waste tire haulers within the State of California pursuant to Public Resources
24 Code ("PRC") sections 42800 et seq., 42950 et seq., and attendant regulations contained in
25 Title 14 of the California Code of Regulations ("CCR").

26 The Parties to this Stipulation For Issuance Of Administrative Decision For Waste Tire
27 Hauler Administrative Penalties (hereafter, "Stipulation") are CALRECYCLE and BQT, INC.
28 aka Bob's Quality Tires, (hereafter, "RESPONDENT") (hereafter, referred to collectively as "the

1 Parties”).

2 On December 11, 2017, CALRECYCLE served RESPONDENT an ADMINISTRATIVE
3 COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (hereafter
4 “Administrative Complaint”), which sought penalties in the amount of \$35,000.00. On January
5 15, 2018, RESPONDENT filed a “Notice of Defense/Request for Hearing”.

6 On March 23, 2018, a Notice of Hearing Officer Assignment and Informal Hearing
7 Procedures were issued to the Parties. In addition, Hearing Officer Douglas Jensen ordered a
8 hearing to be held on May 7, 2018, in Sacramento, California, and a Telephonic Status
9 Confererice scheduled for April 20, 2018, for the Parties to discuss the status of the case.

10 On April 20, 2018, an initial Telephonic Status Conference was conducted during which
11 the hearing date was continued to June 20, 2018, in Sacramento, California. Since that time
12 the Parties have appeared at three subsequent Telephonic Status Conferences, and the
13 hearing has been moved. Currently, a Telephonic Status Conference has been scheduled for
14 September 18, 2018. No hearing is currently on calendar.

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

19 **STIPULATED FACTS**

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

22 2. A “Waste or Used Tire Hauler” or “Hauler” is defined as, “any person engaged in
23 the transportation of waste or used tires, or tire casings, including haulers that [CALRECYCLE]
24 approved as exempt from registration pursuant to PRC section 42954.” (14 CCR section
25 18450(37).)

26 3. A “Waste Tire Hauler Registration” is defined as, “the documents, including the
27 decal and registration form, issued by [CALRECYCLE], which authorizes the holder of the
28 documents to legally haul waste or used tires within California for the period of issuance.” (14

1 CCR section 18450(40).)

2 4. PRC section 42951(a) states, "[e]very person who engages in the transportation
3 of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt
4 as specified in Section 42954."

5 5. PRC section 42952(a) states, in relevant part:

6 Except as provided in Section 42954, a person engaged in
7 transporting waste or used tires shall comply with all of the following
8 requirements:

9 (1) The person shall be registered as a waste and used tire hauler
10 with [CALRECYCLE].

11 6. Title 14 CCR section 18454(a) requires that "any person hauling 10 or more used
12 or waste tires shall apply for a waste tire hauler registration...."

13 7. Pursuant to PRC section 42956(b), "any person who operates a vehicle . . . that
14 transports 10 or more tires without a valid and current waste and used tire hauler registration,
15 as issued by [CALRECYCLE] . . . shall be subject to the enforcement actions specified in
16 Article 4 (commencing with [PRC] Section 42962)."

17 8. Pursuant to PRC section 42961.5(c)(2):

18 Any waste and used tire hauler hauling waste or used tires for
19 offsite handling, altering, storage, disposal, or any combination thereof,
20 shall complete the California Uniform Waste and Used Tire Manifest as
21 required by [CALRECYCLE]. The waste and used tire hauler
22 shall provide the manifest to the waste or used tire facility operator who
23 receives the waste or used tires for handling, altering, storage, disposal,
24 or any combination thereof. *Each waste and used tire hauler shall submit
25 to [CALRECYCLE], on a quarterly schedule, a legible copy of each
26 manifest. The copy submitted to [CALRECYCLE] shall contain the
27 signatures of the generator and the facility operator.*

(Emphasis added.)

25 9. The "California Uniform Waste and Used Tire Manifest" is a form developed by
26 CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the
27 "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14
28

1 CCR section 18450(a)(11), and must be filled out completely and accurately, including
2 providing the Tire Program Identification (TPID) number for the location of delivery or pick-up
3 of each load of waste tires.

4 10. CALRECYCLE explained PRC section 42961.5(c)(2) further in
5 regulations, in order to make clear CTLs must be submitted within the same quarter as
6 the load or waste tires represented on the CTL was picked up or delivered. Pursuant
7 to 14 CCR section 18459.2.1:

8 (a) *The waste tire hauler shall submit the completed original*
9 *CTL Form to [CALRECYCLE] within ninety (90) days of the load*
10 *shipment. The Manifest Form shall be in the waste tire hauler's*
11 *possession while transporting used or waste tires and shall be*
12 *shown upon demand to any representative of [CALRECYCLE],*
13 *any officer of the California Highway Patrol, any peace officer, as*
14 *defined in Sections 830.1 or*
15 *830.2 of the California Penal Code, or any local public officer*
16 *designated by [CALRECYCLE].*

17 (Emphasis added.)

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

23 UNREGISTERED HAULING

24 12. CALRECYCLE issued RESPONDENT a Waste Tire Hauler Registration on
25 March 1, 2017, for its tire hauling operation out of its waste tire facility located at 7808 Fair
26 Oaks Blvd., Carmichael, CA (RESPONDENT's WT Facility).

27 13. RESPONDENT is not and has never been exempt from registration pursuant to
28 PRC section 42954(a)(2)-(9); thus RESPONDENT is required to possess a Waste Tire Hauler
Registration prior to hauling loads of 10 or more used or waste tires.

///

1 14. On February 14, 2017, and June 15, 2017, CALRECYCLE conducted an audit of
2 RESPONDENTs hauling activities via CALRECYCLE's Waste Tire Management System
3 (WTMS) database and determined that RESPONDENT hauled at least 17 loads of ten or more
4 waste or used tires prior to possessing a Waste Tire Hauler Registration.

5 15. On September 26, 2017, Inspector Taunya Bisordi inspected RESPONDENT's
6 WT Facility and observed an additional three CTLs documenting loads of ten or more waste
7 and used tires that were hauled by RESPONDENT prior to RESPONDENT receiving its hauler
8 registration.

9 16. The aforementioned 20 loads of 10 or more waste or used tires are described in
10 the table below:

| 11 | Comprehensive Trip Log | Violation | Violation date | Whole Tire Count |
|----|------------------------|--|------------------|------------------|
| 12 | 6004540-A | Unregistered tire hauling, more than 100 waste or used tires | January 3, 2017 | 138 |
| 13 | 6004527-A | Unregistered tire hauling, 41-100 waste or used tires | January 3, 2017 | 100 |
| 14 | 6004481-A | Unregistered tire hauling, more than 100 waste or used tires | January 3, 2017 | 120 |
| 15 | 6004539-A | Unregistered tire hauling, 41-100 waste or used tires | January 4, 2017 | 100 |
| 16 | 6004538-A | Unregistered tire hauling, 41-100 waste or used tires | January 5, 2017 | 73 |
| 17 | 6004526-A | Unregistered tire hauling, 41-100 waste or used tires | January 9, 2017 | 100 |
| 18 | 6004534-A | Unregistered tire hauling, 41-100 waste or used tires | January 10, 2017 | 97 |
| 19 | 6004525-A | Unregistered tire hauling, 41-100 waste or used tires | January 10, 2017 | 100 |
| 20 | 6004519-A | Unregistered tire hauling, 41-100 waste or used tires | January 10, 2017 | 100 |
| 21 | 6004516-A | Unregistered tire hauling, 41-100 waste or used tires | January 11, 2017 | 100 |
| 22 | 6004467-A | Unregistered tire hauling, more than 100 waste or used tires | January 11, 2017 | 103 |
| 23 | 6004517-A | Unregistered tire hauling, 41-100 waste or used tires | January 12, 2017 | 100 |
| 24 | 6004468-A | Unregistered tire hauling, 41-100 waste or used tires | January 13, 2017 | 92 |
| 25 | 6004466-A | Unregistered tire hauling, 41-100 waste or used tires | January 25, 2017 | 100 |
| 26 | 6004459-C | Unregistered tire hauling, more than 100 waste or used tires | February 3, 2017 | 124 |
| 27 | | | | |
| 28 | | | | |

| | | | |
|-----------|--|-------------------|-----|
| 6004474-A | Unregistered tire hauling, 41-100 waste or used tires | February 8, 2017 | 90 |
| 6004530-A | Unregistered tire hauling, 41-100 waste or used tires | February 22, 2017 | 100 |
| 5753582-A | Unregistered tire hauling, more than 100 waste or used tires | February 22, 2017 | 111 |
| 6004521-A | Unregistered tire hauling, 41-100 waste or used tires | February 24, 2017 | 100 |
| 6004529-A | Unregistered tire hauling, 41-100 waste or used tires | February 24, 2017 | 100 |

NON-STIPULATED ALLEGED FACTS

17. During the same inspection on September 26, 2017, Inspector Bisordi observed 10 CTLs that RESPONDENT failed to submit to CALRECYCLE within the required 90-day period. The penalties associated with these alleged facts were calculated as a part of penalties in the Administrative Complaint; however, for purposes of this Stipulation and the corresponding Administrative Decision, CALRECYCLE is dismissing these violations. Said CTLs are documented in the table below:

| Comprehensive Trip Log | Violation | Violation Date | Whole Tire Count |
|------------------------|--------------------------------------|----------------|------------------|
| 6151180-A | Failure to submit CTL within 90 days | April 13, 2017 | 86 |
| 6151175-A | Failure to submit CTL within 90 days | May 25, 2017 | 90 |
| 6151197-C | Failure to submit CTL within 90 days | May 30, 2017 | 100 |
| 6151201-B | Failure to submit CTL within 90 days | June 8, 2017 | 100 |
| 6151175-B | Failure to submit CTL within 90 days | June 12, 2017 | 92 |
| 6151178-B | Failure to submit CTL within 90 days | July 1, 2017 | 100 |
| 6151172-A | Failure to submit CTL within 90 days | July 6, 2017 | 93 |
| 6151172-C | Failure to submit CTL within 90 days | July 11, 2017 | 92 |

| | | | |
|-----------|--------------------------------------|---------------|----|
| 6151173-C | Failure to submit CTL within 90 days | July 14, 2017 | 90 |
| 6151233-A | Failure to submit CTL within 90 days | July 19, 2017 | 97 |

STIPULATED CONCLUSION OF LAW

The Parties stipulated to the following conclusion of law:

18. RESPONDENT is in violation of PRC section 42951(a) for transporting 20 loads of 10 or more waste or used tires on at least 20 occasions prior to receiving its Waste Tire Hauler Registration, and without being subject to an exemption to the registration requirement.

ALLEGED CONCLUSIONS OF LAW DISMISSED BY CALRECYCLE

19. RESPONDENT violated 14 CCR section 18459.2.1. for failing to submit CTLs to CALRECYCLE within the required 90-day period on at least 10 occasions.

STIPULATED ORDER

The Parties stipulate to the following terms and conditions in full and complete settlement of all issues in the above-referenced matter:

20. 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 \$25,000.00 for the violations set forth in this Stipulation. Payment of the penalty shall be satisfied in the following manner:

(a) RESPONDENT shall pay \$8,500.00 to CALRECYCLE in accordance with the following:

- i. RESPONDENT shall make installment payments to CALRECYCLE of \$152.00 each month without interest with the first payment due 120 days after the effective date of the Administrative Decision issued pursuant to this Stipulation until the total amount of said payment totals \$8,500.00.

- 1 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
2 date, and if RESPONDENT fails to cure the missed payment(s) prior to the
3 1st day of the month following said missed payment, RESPONDENT shall be
4 found in partial default of this Stipulation. The partial default shall be
5 calculated as the amount owed from the missing payment(s) plus a 10% late
6 penalty and interest. CALRECYCLE may seek recovery of this amount
7 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
8 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
9 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
10 place as CALRECYCLE or its agent may from time to time designate in
11 writing.
12 iv. \$16,500.00 of this administrative penalty shall be stayed and held in
13 abeyance for a period of five years. The stayed penalty shall be deemed
14 terminated and shall not be paid by RESPONDENT to CALRECYCLE
15 following the five-year period absent a default as described.

16 21. RESPONDENT shall comply with all other laws related to waste tire storage and
17 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
18 14 of the CCR. Failure to comply with any of these laws shall result in a partial default of this
19 Stipulation.

20 22. **Default:** The Parties agree the following shall apply to a full default or partial
21 default of this Stipulation:

22 If RESPONDENT defaults under any of the terms of this Stipulation, CALRECYCLE
23 shall send a Notice of Default to RESPONDENT; said Notice of Default shall state the
24 paragraphs or provisions of this Stipulation of which RESPONDENT is in default.

25 RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to
26 provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence
27 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default
28 and, if appropriate, shall issue a Supplemental Decision regarding any remaining penalties
 due. RESPONDENT may appeal CALRECYCLE's determination and subsequent

1 Supplemental Decision within thirty (30) days of the issuance of the Supplemental Decision;
2 any such appeal shall be heard by CALRECYCLE's Director, or an agent designated by the
3 Director.

4 i. **Full Default:** A full default shall result in an order for the remittance of the entire
5 remaining penalty amount due plus the entire remaining amount held in
6 abeyance.

7 ii. **Partial Default:** Any partial penalty ordered in a Supplemental Decision shall be
8 calculated as a "2nd & subsequent" act for negligent violations or a "3rd &
9 subsequent" act for intentional violations described in 14 CCR section 18429,
10 and as "3rd and Subsequent Offenses" for violations described in 14 CCR
11 section 18464.

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

15 24. RESPONDENT shall abide by all of the terms and conditions set forth in
16 this Stipulation.

17 25. No covenant, promise, term, condition, breach or default of or under this
18 Stipulation shall be deemed to have been waived except as expressly so stated in writing by
19 CALRECYCLE. A waiver by CALRECYCLE of any breach or default by RESPONDENT under
20 this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or default
21 by RESPONDENT.

22 26. RESPONDENT has freely and voluntarily entered into this Stipulation and has
23 been afforded the opportunity to consult with counsel prior to entering into this Stipulation. It is
24 expressly understood and agreed that no representations or promises of any kind, other than
25 as contained herein, have been made by any party to induce any other party to enter into this
26 Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise
27 changed except by a writing executed by each of the parties hereto. Each party hereto agrees
28 to execute and deliver any and all documents and to take any and all actions necessary or

1 appropriate to consummate this Stipulation and to carry out its terms and provisions.

2 27. Except as expressly provided herein, RESPONDENT waives the right in the
3 entitled matter to a hearing, any and all appeals, and any and all rights that may be
4 afforded pursuant to the PRC, or the Administrative Procedure Act, regarding the express
5 provisions of this Stipulation. Such a waiver does not apply to any potential criminal violation.

6 28. This Stipulation shall be binding and inure to the benefit of the successors, heirs,
7 and assigns of the respective parties hereto.

8 29. This Stipulation and the corresponding Administrative Decision to be issued
9 constitute the entire understanding of the parties concerning the settlement of this proceeding.
10 There are no restrictions, promises, warranties, covenants, undertakings, or representations
11 other than those expressly set forth herein or contained in separate written documents
12 delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it
13 has not relied upon any restrictions, promises, warranties, covenants, undertakings, or
14 representations other than those expressly contained herein.


15 30. For purposes of this Stipulation, facsimile, or electronically-transmitted,
16 signatures will be treated as originals until the applicable page(s) bearing non-facsimile
17 signatures have been received by CALRECYCLE.

18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

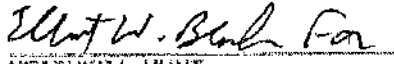
1 3) The effective date of this Stipulation is the date of issuance of the corresponding
2 Administrative Decision.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

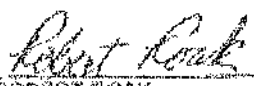
Dated: 9/7/18


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

Dated: 9/12/18


HEATHER L. HUNT
Attorney III for
DEPARTMENT OF RESOURCES RECYCLING AND
RECOVERY (CALRECYCLE)

Dated: 9/17/18


ROBERT ROAK
BQT, INC. AKA BOB'S QUALITY TIRES