

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, 24<sup>th</sup> 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

14 RESPONDENT

16 TPID NO.: 1547407

Case No. IH18-007-TIR

ADMINISTRATIVE DECISION  
PURSUANT TO STIPULATION FOR  
WASTE TIRE HAULER  
ADMINISTRATIVE PENALTIES

PUBLIC RESOURCES CODE  
SECTION 42950, ET SEQ.

AGENCY NO: 2017-011199-ADC

19  
20 INTRODUCTION

21 This ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR WASTE TIRE  
22 HAULER ADMINISTRATIVE PENALTIES (hereafter "Decision") is based on the  
23 STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE  
24 HAULER ADMINISTRATIVE PENALTIES (hereafter "Stipulation") signed by Robert Roak for  
25 BQT, Inc aka Bob's Quality Tires (hereafter "RESPONDENT") on September 7, 2018, and  
26 Elliot Block, Chief Counsel, for Heather L. Hunt, Attorney III for Department of Resources  
27 Recycling and Recovery (hereafter "CALRECYCLE") on September 12, 2018, and Mark De  
28 Bie, Deputy Director for CALRECYCLE on September 7, 2018.

1 The parties to this Decision are CALRECYCLE and RESPONDENT (hereafter, referred  
2 to collectively as "the parties").

3 On December 11, 2017, CALRECYCLE served RESPONDENT an ADMINISTRATIVE  
4 COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (hereafter  
5 "Administrative Complaint"), which sought penalties in the amount of \$35,000.00. On January  
6 15, 2018, RESPONDENT filed a "Notice of Defense/Request for Hearing".

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

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

17 The Parties negotiated the Stipulation in lieu of litigating the case at an informal  
18 administrative hearing. Good cause appearing therefore, the following Findings of Fact, Legal  
19 Conclusions and Order are made.

### 20 21 **FINDINGS OF FACT**

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

24 2. A "Waste or Used Tire Hauler" or "Hauler" is defined as, "any person engaged in  
25 the transportation of waste or used tires, or tire casings, including haulers that [CALRECYCLE]  
26 approved as exempt from registration pursuant to PRC section 42954." (14 CCR section  
27 18450(37).)

28 ///

1           3.     A "Waste Tire Hauler Registration" is defined as, "the documents, including the  
2 decal and registration form, issued by [CALRECYCLE], which authorizes the holder of the  
3 documents to legally haul waste or used tires within California for the period of issuance." (14  
4 CCR section 18450(40).)

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

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

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

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

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

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

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

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

(Emphasis added.)

///



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

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

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

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

Comprehensive Trip Log	Violation	Violation date	Whole Tire Count
6004540-A	Unregistered tire hauling, more than 100 waste or used tires	January 3, 2017	138
6004527-A	Unregistered tire hauling, 41-100 waste or used tires	January 3, 2017	100
6004481-A	Unregistered tire hauling, more than 100 waste or used tires	January 3, 2017	120
6004539-A	Unregistered tire hauling, 41-100 waste or used tires	January 4, 2017	100
6004538-A	Unregistered tire hauling, 41-100 waste or used tires	January 5, 2017	73
6004526-A	Unregistered tire hauling, 41-100 waste or used tires	January 9, 2017	100
6004534-A	Unregistered tire hauling, 41-100 waste or used tires	January 10, 2017	97
6004525-A	Unregistered tire hauling, 41-100 waste or used tires	January 10, 2017	100
6004519-A	Unregistered tire hauling, 41-100 waste or used tires	January 10, 2017	100
6004516-A	Unregistered tire hauling, 41-100 waste or used tires	January 11, 2017	100
6004467-A	Unregistered tire hauling, more than 100 waste or used tires	January 11, 2017	103
6004517-A	Unregistered tire hauling, 41-100 waste or used tires	January 12, 2017	100
6004468-A	Unregistered tire hauling, 41-100 waste or used tires	January 13, 2017	92

6004466-A	Unregistered tire hauling, 41-100 waste or used tires	January 25, 2017	100
6004459-C	Unregistered tire hauling, more than 100 waste or used tires	February 3, 2017	124
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 the Stipulation and this 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

**LEGAL CONCLUSIONS**

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

**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.

**ORDER**

20. CALRECYCLE approves of, and adopts the terms of the Stipulation, and hereby orders RESPONDENT to comply with the following terms, in accordance with the Stipulation:

21. Pursuant to the terms and conditions of the 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 above. 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

1 after the effective date of the Decision until the total amount of said payment  
2 totals \$8,500.00.

- 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 1<sup>st</sup> 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 this 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 iv. \$16,500.00 of this administrative penalty shall be stayed and held in  
15 abeyance for a period of five years. The stayed penalty shall be deemed  
16 terminated and shall not be paid by RESPONDENT to CALRECYCLE  
17 following the five-year period absent a default as described.

18 22. RESPONDENT shall comply with all other laws related to waste tire storage and  
19 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title  
20 14 of the CCR. Failure to comply with any of these laws shall result in a partial default of the  
21 Stipulation.

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

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

27 RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to  
28 provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence



1 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default  
2 and, if appropriate, shall issue a Supplemental Decision regarding any remaining penalties  
3 due. RESPONDENT may appeal CALRECYCLE's determination and subsequent  
4 Supplemental Decision within thirty (30) days of the issuance of the Supplemental Decision;  
5 any such appeal shall be heard by CALRECYCLE's Director, or an agent designated by the  
6 Director.

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


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

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

18 25. RESPONDENT shall abide by all of the terms and conditions set forth in  
19 the Stipulation.

20  
21 This Decision shall become effective as of the date signed below:

22  
23  
24 Dated: 9/21/2019

  
25 \_\_\_\_\_  
26 MARK DE BIE  
27 Deputy Director  
28 DEPARTMENT OF RESOURCES, RECYCLING AND  
RECOVERY (CALRECYCLE)



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027  
P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

**PROOF OF SERVICE**

I, Juliana LeClaire, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to this action. My place of employment and business is as in the letterhead.

On September 21<sup>st</sup>, 2018, I served the ADMINISTRATIVE DECISION PURSUANT TO STIPULATION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES, In the Matter of BQT, Inc. aka Bob's Quality Tires, DRRR Case No. IH18-007-TIR, to:

BQT, Inc. aka Bob's Quality Tires  
c/o Jess C. Bedore III, Esq.  
1237 Beckett Drive,  
Roseville, CA 95747  
[jbedore@jcbllaw.com](mailto:jbedore@jcbllaw.com)

- First Class US Mail** - In a sealed envelope, with postage thereon fully prepaid, via United States Postal Service
- Certified Return Receipt First Class US Mail** - In a sealed envelope, with postage thereon fully prepaid, via United States Postal Service
- By Email** – to the email address listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed at Sacramento, California, on September 21<sup>st</sup>, 2018.

  
Declarant

