

ELLIOT BLOCK SBN 116999
Chief Counsel
HEATHER L. HUNT SBN 225861
CATHERINE V. NYSTROM SBN 278265
Attorneys for Complainant
DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
P. O. Box 4025
Sacramento, CA 95812-4025
Telephone: (916) 341- 6823
Facsimile: (916) 319-7765

STATE OF CALIFORNIA
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of:

WILSON WAY TIRE COMPANY, INC.

RESPONDENT

TPID NO.: 1000837-01

CASE NO. IH16-002-TIR

SUPPLEMENTAL ADMINISTRATIVE
DECISION FOR PENALTIES
PURSUANT TO DEFAULT OF
STIPULATION

AGENCY NO: 2015-011180-ADC

INTRODUCTION AND PROCEDURAL HISTORY

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

On March 8, 2016, CALRECYCLE issued an Administrative Complaint for Waste Tire Hauler Administrative Penalties ("Administrative Complaint") seeking \$9,950.00 in penalties against Wilson Way Tire Company, Inc. ("RESPONDENT"). On March 31, 2016, William J. Wallace, Attorney for Wilson Way Tire Co., Inc. filed a Request for Hearing/Notice of Defense

1 with the CALRECYCLE Legal Office. An informal hearing was scheduled for June 22, 2016, at
2 CALRECYCLE's offices in Sacramento, California.

3 In lieu of litigating the case at an administrative hearing, the parties negotiated a
4 Stipulation For Issuance of Administrative Decision For Waste Tire Hauler Administrative
5 Penalties ("Stipulation") signed by Anthony Mattioli, Representative for Wilson Way Tire
6 Company, Inc., and William Wallace, Esq., Attorney for RESPONDENT on June 20, 2016,
7 Catherine V. Nystrom, Attorney for CALRECYCLE on June 15, 2016, and Mark De Bie, Deputy
8 Director for CALRECYCLE on June 24, 2016. An Administrative Decision For Waste Tire
9 Hauler Administrative Penalties (" Administrative Decision") was issued on June 24, 2016.

10 On October 24, 2018, CALRECYCLE issued RESPONDENT a Notice of Default of
11 Stipulation For Issuance of Administrative Decision For Waste Tire Hauler Administrative
12 Penalties ("Notice of Default"). The Notice of Default was issued because RESPONDENT
13 failed to cure missed payment(s) within twenty (20) days of said missed payment.
14 RESPONDENT was notified of the right to provide evidence refuting CALRECYCLE's claim of
15 default within 30 days. RESPONDENT has not provided any evidence that there was no
16 default of the Stipulation.

17 This Supplemental Administrative Decision does not supersede the terms and
18 conditions contained in the Stipulation and Administrative Decision, including the Stipulated
19 Factual Findings, Stipulated Conclusions of Law, and final Order. This Supplemental
20 Administrative Decision is issued by CALRECYCLE pursuant to a default by RESPONDENT of
21 the terms and conditions of the Stipulation. Specifically, RESPONDENT is in violation of the
22 terms set forth in the Stipulated Order, Paragraph 22(a).

23 Pursuant to the Stipulation, and good cause appearing therefore, the following Factual
24 Findings and Conclusions of Law are made, and the following Order is issued:

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1 **FACTUAL FINDINGS**

2 **Respondent failed to cure missed payment(s) within twenty (20) days of said missed**
3 **payment.**

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5 1. Paragraph 22 (a) of the Stipulated Order requires RESPONDENT to pay an
6 administrative penalty to CALRECYCLE in the sum of \$9,950.00 for the violations set forth in
7 this Stipulation. Payment of the penalty shall be satisfied in the following manner:

8 (a) RESPONDENT shall pay \$5,000.00 to CALRECYCLE in accordance with the
9 following:

- 10 i. RESPONDENT shall make installment payments to CALRECYCLE of
11 \$500.00, each month with the first payment due on the 60th day after the
12 effective date of the Administrative Decision issued pursuant to this
13 Stipulation, until the total amount of said payment totals \$5,000.00.
- 14 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
15 date, and if RESPONDENT fails to cure the missed payment(s) within twenty
16 (20) days of said missed payment RESPONDENT shall be found in partial
17 default of this Stipulation. The partial default amount due shall be calculated
18 to include the amount owed from the missing payment(s) plus a 10% late
19 penalty and interest. CALRECYCLE may seek recovery of this amount
20 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
- 21 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
22 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
23 place as CALRECYCLE or its agent may from time to time designate in
24 writing.
- 25 iv. \$4,950.00 of this administrative penalty shall be stayed and held in abeyance
26 for a period of three years. The stayed penalty shall be deemed terminated
27 and shall not be paid by RESPONDENT to CALRECYCLE following the
28 three-year period absent a default as described.

1 **Default**

2 2. Paragraph 26 of the Stipulated Order states, "If RESPONDENT defaults under
3 any of the terms of this Stipulation, CALRECYCLE shall send a Notice of Default to
4 RESPONDENT; said Notice of Default shall state the paragraphs or provisions of this
5 Stipulation of which RESPONDENT is in default and the abeyance amount owed.
6 RESPONDENT shall have 30 days from the date of the issuance of the Notice of Default to
7 provide evidence refuting CALRECYCLE's claim of default. After a review of the evidence
8 provided by RESPONDENT, CALRECYCLE shall make a determination regarding the default
9 and, if appropriate, shall issue a Supplemental Decision regarding any remaining penalties
10 due.

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

25 3. As of the effective date of this Supplemental Decision, CALRECYCLE has not
26 received payments from RESPONDENT.

27 4. Because RESPONDENT is in violation of the payment plan as outlined in the
28 Stipulation and Decision, RESPONDENT has partially defaulted on the June 24, 2016
Stipulation, pursuant to Stipulation Paragraph 22(a).

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1 **CONCLUSIONS OF LAW**

2 5. RESPONDENT failed to comply with the terms set forth in Paragraph 22(a) of the
3 Stipulation constituting a partial default, as specified in Paragraph 26 of the Stipulation.
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5 **ORDER**

6 **GOOD CAUSE APPEARING THEREFORE**, the following order is hereby made:

7 6. In accordance with Paragraphs 22 and 26 of the Stipulation, RESPONDENT is
8 ordered to pay a partial default penalty of \$5,500 (\$5,000 in missed payments, plus a 10% late
9 penalty and interest) to CALRECYCLE immediately.

10 7. Nothing in this Supplemental Decision precludes CALRECYCLE from pursuing
11 future collection of the \$4,950.00 administrative penalty that is held in abeyance pursuant to
12 paragraph 22(a) of the Stipulation and Administrative Decision. CALRECYCLE reserves the
13 right to pursue the full abeyance amount, or a lesser amount, at a future date.
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15 The effective date of this Supplemental Decision is 1/9/2019.
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19 _____
20 MARK DE BIE
21 Deputy Director for
22 DEPARTMENT OF RESOURCES, RECYCLING AND
23 RECOVERY (CALRECYCLE)
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