

1 to Public Resources Code (PRC) section 40401(a)(1).

2 Pursuant to PRC section 42851(a), CALRECYCLE is authorized to issue an
3 administrative accusation to a person on whom civil liability may be imposed. This
4 Administrative Complaint For Waste Tire Storage Administrative Penalties is so issued based
5 on the following facts.

6
7 **STATEMENT OF FACTS**

8 1. CALRECYCLE has authority to regulate and conduct enforcement actions
9 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California
10 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
11 14 of the California Code of Regulations (CCR).

12 2. RESPONDENTS are responsible for allowing waste tires to be illegally stored at
13 1596 S 7th Street, Suite C, San Jose, California, (the site) in an amount of 5,000 or more without
14 first obtaining a "major Waste Tire Facility Permit," in violation of PRC section 42823 and for
15 accepting waste tires at the illegal major WT facility site without first obtaining a permit in
16 violation of PRC section 42824.

17 3. PRC section 42808 defines a waste tire facility as:

18 . . . a location, other than a solid waste facility permitted pursuant to this division that
19 receives for transfer or disposal less than 150 tires per day averaged on an annual
20 basis, where, at any time, waste tires are stored, stockpiled, accumulated, or discarded.
"Waste tire facility" includes all of the following:

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

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

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

(Pub. Resources Code § 42808. Emphasis added.)

28 4. Pursuant to PRC section 42823, "Except [for cement manufacturing plants

1 described in section 42823.5], no person shall establish a new major waste tire facility . . .
2 unless the person has obtained a major waste tire facility permit issued by the department."

3 5. 14 CCR section 18423 requires every operator of a new major or minor WT
4 facility to submit a major WT facility permit application to CALRECYCLE.

5 6. Pursuant to PRC section 42824, "... it is unlawful to direct or transport waste tires
6 to a major WTF or to accept waste tires at a major waste tire facility unless the operator has
7 obtained a major waste tire facility permit."

8 7. 14 CCR sections 17350 through 17356 prescribe the minimum storage standards
9 (State Minimum Standards or SMS) required at a WT facility.

10 8. 14 CCR section 17351 sets forth general SMS required at a WT facility as:

11 Pursuant to the California Fire Code, Title 24 of the California Code of Regulations,
12 sections 3201.1 through 3210.1, 3404.1 through 3408.2, which are hereby incorporated
13 by reference, any person storing 500 or more waste tires shall meet the following
14 requirements:

14 (a) The operator of the waste tire facility or solid waste facility shall demonstrate that
15 they have prepared and submitted a fire safety plan to the fire code official having
16 jurisdiction over a particular facility for review and approval. The fire safety plan shall
17 include provisions for fire department vehicle access. At least one copy of the most
18 recent, up-to-date fire safety plan and, if applicable, any approvals shall be made
19 available at the time of inspection and at the time of application for a new permit, permit
20 review or permit revision.

18 (b) Communication equipment shall be maintained at all waste tire facilities and solid
19 waste facilities, if they are staffed by an attendant, to ensure that the site operator can
20 contact local fire authority in the event of fire. The telephone number of the local fire
21 authority and location of the nearest telephone shall be posted conspicuously in
22 attended locations.

21 (c) Adequate equipment to aid in the control of fires shall be provided and maintained at
22 the waste tire facility or solid waste facility at all times. At a minimum, the following items
23 shall be maintained on site and in working order at all times:

23 (1) Buildings or structures shall be equipped with portable fire extinguishers in
24 accordance with Section 906 of the California Fire Code;

24 (2) One (1) pike pole or comparable pole at least 10 feet in length to separate burning
25 from non-burning tires;

25 (3) One (1) round point and one (1) square point shovel; and

26 (4) One (1) portable fire extinguisher with a minimum rating of A:40-B:C shall be carried
27 on each piece of fuel-powered equipment used to handle waste tires;.

28 (d) An adequate water supply shall be available for use by the local fire authority. The
water supply shall be capable of delivering at least 1,000 gallons per minute for a

1 duration of at least three hours and at least 2,000 gallons per minute for a duration of at
2 least three hours if the sum of altered plus whole waste tires exceeds 10,000. The water
3 supply shall be arranged such that any part of the storage yard can be reached by using
4 not more than 500 feet of hose.

(e) The following precautions against fire shall be maintained at the waste tire facility or
solid waste facility at all times:

(1) No open burning.

(2) Open flame, cutting, welding, or heating devices, blow torches, or highly flammable
materials, including, but not limited to, inner tubes, are prohibited within 40 feet of waste
tires.

(3) No smoking, except in designated areas.

(4) Tire storage piles shall not be located beneath electrical power lines having a voltage
in excess of 750 volts or that supply power to fire emergency systems.

(f) All of the requirements of subsections (a) through (e) above shall apply unless the
local fire authority having jurisdiction over a particular facility determines that a different
requirement is necessary or adequate to meet the intent of these regulations for fire
control and the protection of life and property. This may include the availability of earth
moving equipment or other approved means to control the tire fire. Any change in, or any
new, local fire authority requirements that affect the requirements in this Article shall be
reported to the Department by the operator within 30 days after their effective date. Any
alternative requirements approved by the local fire authority shall be subject to
Department concurrence at the time of issuance or review of the permit.

(Cal. Code Regs., tit. 14 § 17351.)

9. 14 CCR section 17352 sets forth requirements for access to and security at a
waste tire facility, as follows:

(a) Signs – For waste tire facilities and solid waste facilities open to the public a sign
shall be posted at the facility entrance stating the name of the operator, operating hours,
and site rules.

(b) Attendant - An attendant shall be present when the waste tire facility or solid waste
facility is open for business if the facility receives tires from persons other than the
operator of the facility.

(c) Access - An access road to the waste tire facility or solid waste facility shall be
maintained passable for emergency equipment, fire apparatus, and vector control
vehicles at all times. Unauthorized access shall be strictly controlled.

(Cal. Code Regs., tit. 14 § 17352.)

10. 14 CCR section 17353 sets forth requirements for vector control at a WT facility,
as follows:

(a) All waste tires shall be stored in a manner which prevents the breeding and
harborage of mosquitoes, rodents, and other vectors by any of the following means:

1 (1) Cover with impermeable barriers other than soil to prevent entry or accumulation of
2 precipitation; or

3 (2) Use of treatments or methods to prevent or eliminate vector breeding as necessary,
4 provided the control program is approved as appropriate and effective by the local vector
5 control authority, if such authority exists. If no local vector control authority exists, the
6 local Environmental Health Department or other local agency with authority over vector
7 control shall approve the vector control plan. Any control program approved by the local
8 vector control authority shall be subject to Department concurrence at the time of
9 issuance or review of the waste tire facility permit.

10 (Cal. Code Regs., tit. 14 § 17353.)

11 11. 14 CCR section 17354 sets forth requirements for the outdoor storage of waste
12 tires at a WT facility, as follows:

13 (a) Waste tires stored outdoors shall be stored as prescribed in the subsections below,
14 and pursuant to the California Fire Code, Title 24 of the California Code of Regulations,
15 sections 3405.1 through 3405.9, which are hereby incorporated by reference.

16 (b) All of the requirements in subsections (c) through (j) below shall apply to the storage
17 of waste tires unless, for any particular requirement, the local fire authority having
18 jurisdiction over a particular facility determines that a different requirement is necessary
19 or adequate to meet the intent of these regulations for the prevention of fire and the
20 protection of life and property. Any change in, or any new, local fire authority
21 requirements that affect the requirements in this Article shall be reported to the
22 Department by the operator within 30 days after their effective date. Any alternative
23 requirements approved by the local fire authority shall be subject to Department
24 concurrence at the time of issuance or review of the permit.

25 (c) Storage of waste tires shall be restricted to individual piles that do not exceed 5,000
26 square feet of contiguous area. Pile width shall not exceed 50 feet. Any pile shall not
27 exceed 50,000 cubic feet in volume or 10 feet in height.

28 (d) Tire storage piles containing less than 500 waste tires shall be located no closer than
10 feet from lot lines or buildings; however, tire piles containing less than 500 waste tires
may be stored within 10 feet of lot lines or buildings after the operator has obtained
approval from the fire code official. Waste tire piles containing less than 500 waste tires
shall not exceed 6 feet in height when within 20 feet of any property line, building, or
perimeter fencing. Side slopes shall not exceed 60 degrees.

(e) Tire storage piles containing 500 or more waste tires shall be located at least 50 feet
from lot lines and buildings, unless the facility is a waste tire facility described in
subsection (1) through (4) below.

(1) Where the waste tire facility has obtained approval from the fire code official and the
waste tires are stored at an exempt or excluded site defined in 14 CCR section
17225.822, tire storage piles may be located within 50 feet but no closer than 10 feet
from lot lines or from buildings.

(2) Where the waste tire facility has obtained approval from the fire code official and the
waste tires are stored at a permitted minor waste tire facility, tire storage piles may be

1 located closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from
2 buildings.

3 (3) Where wastes tires are stored at a minor waste tire facility that was issued a minor
4 waste tire facility permit prior to January 1, 2011, tire storage piles may be located closer
5 than 50 feet but no closer than 10 feet from lot lines and 50 feet from buildings.

6 (4) In no case shall the waste tire storage piles exceed 6 feet in height when within 20
7 feet of any lot line or perimeter fencing, and side slopes shall not exceed 60 degrees.

8 (f) Any individual waste tire pile shall be separated from any other waste tire pile,
9 combustible ground vegetation, stored used tires, waste tire material, or products made
10 from tires, by a distance of at least 40 feet.

11 (g) Waste tire piles shall not be located under bridges, elevated trestles, elevated
12 roadways, or stored in an area where they may be subjected to immersion in water
13 during a 100-year storm unless the owner or operator demonstrates that the waste tire
14 facility or solid waste facility will be designed and operated so as to prevent waste tires
15 from migrating off-site.

16 (h) At a waste tire facility or solid waste facility storing more than 150,000 cubic feet of
17 waste tires, adjacent individual waste tire piles shall be considered a group, and the
18 aggregate volume of storage piles in a group shall not exceed 150,000 cubic feet. Each
19 group shall be separated from any other group by a distance of at least 75 feet.

20 (i) Tires must be removed from rims immediately upon arrival at the waste tire facility or
21 solid waste facility. Tires temporarily attached to rims awaiting removal shall be stored
22 separate from other waste tires.

23 (j) The waste tire facility or solid waste facility shall be designed and constructed to
24 provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential
25 tire fire.

26 (Cal. Code Regs., tit. 14 § 17354.)

27 12. 14 CCR section 17356 sets forth the requirements for the indoor storage of
28 waste tires at a WT facility as follows:

(a) Waste tires stored indoors shall be stored in the manner prescribed in the
subsections below, and pursuant to the California Fire Code, Title 24 of the California
Code of Regulations, sections 3201.1 through 3210.1, 3403.1 through 3403.4 and
3409.1, which are hereby incorporated by reference:

(1) Waste tires stored adjacent to or along one wall shall not extend more than 25 feet
from such wall.

(2) Waste tire piles shall not exceed 50 feet in width in any one direction. Where waste
tires are stored on-tread, standing side by side in rows, the dimension of the pile in the
direction of the wheel hole shall not be more than 50 feet.

(3) Waste tires shall not be stored in exits or enclosures for stairways or ramps, or in
boiler rooms, mechanical rooms, or electrical equipment rooms.

1 (4) Waste tires shall not be stored within 2 feet or less from the ceiling in nonsprinklered
2 areas of a building.

3 (5) Waste tires shall not be stored within 18 inches or less below sprinkler head
4 deflectors in sprinklered areas of a building.

5 (6) Where the top of the storage of waste tires is greater than six feet in height, waste
6 tires shall be stored in accordance with the following:

7 (A) Waste tire facilities and solid waste facilities with an indoor storage area between
8 500 square feet and 2,500 square feet shall maintain aisles with access to exits and fire
9 access doors in accordance with the following requirements:

10 (1) In sprinklered buildings aisles shall be a minimum of 44 inches wide.

11 (2) In nonsprinklered buildings aisles shall be a minimum of 96 inches wide.

12 (3) The required aisle width shall extend from floor to ceiling.

13 (B) Waste tire facilities and solid waste facilities with an indoor storage area exceeding
14 2,500 square feet shall maintain aisles with access to exits and fire access doors in
15 accordance with the following requirements:

16 (1) In nonsprinklered buildings aisles shall be a minimum of 96 inches wide.

17 (2) In sprinklered buildings where the waste tire piles are accessible to the public aisles
18 shall be a minimum of 96 inches wide.

19 (3) In sprinklered buildings where the waste tire piles are not accessible to the public
20 aisles shall be a minimum of 44 inches wide.

21 (4) The required aisle width shall extend from floor to ceiling.

22 (C) For waste tire facilities or solid waste facilities with a storage area of 500 square feet
23 or less, the dimensions of the waste tire piles shall not exceed 50 feet in any direction.

24 (D) For waste tire facilities or solid waste facilities with a storage area greater than 500
25 square feet the dimensions of the waste tire piles shall not exceed 50 feet in any
26 direction, 30 feet in height, and 75,000 cubic feet in volume.

27 (E) No waste tire facility or solid waste facility shall store waste tires in an area greater
28 than 500,000 square feet.

(F) Waste tire facilities and solid waste facilities with an indoor storage area greater than
500 square feet shall be equipped with an automatic fire extinguishing system that has
been described by the operator in the fire safety plan required by section 17351(a).

(G) Waste tire facilities and solid waste facilities with an indoor storage area greater than
2,500 square feet shall be equipped with smoke and heat vents that have been
described by the operator in the fire safety plan required by section 17351(a).

(b) For purposes of determining the square footage of storage space described in
subsection (a) above, the aggregate of all waste tire storage areas within a building
which are designated, intended, proposed or actually used for storing waste tires at a
maximum height of more than six feet shall be used, unless such areas are separated
from each other by 1-hour fire barriers that have been approved by the local fire code
official. Openings in 1-hour fire barriers shall be protected by opening protectives having
a 1-hour fire protection rating.

1 (c) The requirements in subsections (a) and (b) above shall apply unless the local fire
2 authority having jurisdiction over a particular facility determines that a different
3 requirement is necessary or adequate to meet the intent of these regulations for fire
4 control and the protection of life and property. Any change in, or any new, local fire
5 authority requirements that affect the requirements in this Article shall be reported to the
6 Department by the operator within 30 days after their effective date. Any requirements
7 approved by the local fire authority shall be subject to Department concurrence at the
8 time of issuance or review of the permit.

9 (Cal. Code Regs., tit. 14 § 17356.)

10 13. At no time have RESPONDENTS been in possession of either a minor or a major
11 WT facility permit for the site, and at no time have RESPONDENTS met the requirements for an
12 exemption or exclusion from the permitting requirement. Therefore, at no time have
13 RESPONDENTS been authorized to store more than 499 WT at the site.

14 14. At no time have RESPONDENTS been in possession of a business license or
15 other documentation that would allow RESPONDENTS to qualify as a used tire dealer.

16 15. During an inspection of the site on April 16, 2015, and documented in
17 CALRECYCLE's Survey and Inspection Report (Inspection Report) number IW-1022222,
18 CALRECYCLE inspectors Randy Friedlander and Ivan Palenyy determined that 1480 waste
19 tires were being stored onsite. Because RESPONDENTS were not authorized to store more
20 than 499 waste tires onsite, this site is deemed an illegal minor WT facility.

21 16. During an inspection of the site on September 23, 2015, and documented in
22 Inspection Report number IW-1028518, CALRECYCLE inspectors Randy Friedlander and Jean
23 Whalen determined that 140,699 waste tires were being stored onsite, creating an illegal major
24 WT facility. Inspectors Friedlander and Whalen issued a Notice of Violation to RESPONDENTS
25 for operating a major WT facility without a major WT facility permit and directed
26 RESPONDENTS to reduce their WT count to 499 or below by November 6, 2015.

27 17. During the same inspection on September 23, 2015, Inspectors Friedlander and
28 Whalen also issued violations for the following sections of Title 14 of the California Code of
Regulations: 17351(a), (b), (c)(2), (c)(3), (d)(3), (f); 17352; 17353; 17354(a), (b), (c), (d), (e), (f),
(h), (j); 17356(a)(1), (a)(2), (a)(3), (a)(7)(A), (a)(7)(D), a(8), a(9), a(10), (b), and (c). Inspector
Whalen also noted multiple violations of the WT hauler laws in Chapter 19 of Division 30, Part 3,

1 of the PRC and attendant regulations.

2 18. During an inspection of the site on November 9, 2015, and documented in
3 Inspection Report number IW-1030609, CALRECYCLE inspectors Rob Baumann and Jean
4 Whalen determined 96,013 WT to be onsite. Inspectors Baumann and Whalen issued a Notice
5 of Violation to RESPONDENTS for operating a major WT facility without a major WT facility
6 permit.

7 19. During the same inspection on November 9, 2015, Inspectors Baumann and
8 Whalen also issued violations for the following sections of Title 14 of the California Code of
9 Regulations: 17351(a), (b), (c)(2), (c)(3), (d)(3), (f); 17353; 17354(a), (b), (c), (d), (e), and (j).
10 Inspector Whalen also noted multiple violations of WT Hauler laws in Chapter 19 of Division 30,
11 Part 3, of the PRC and attendant regulations.

12 20. On December 8, 2015, CALRECYCLE served RESPONDENTS with Cleanup
13 and Abatement Order number 2015-011051-CAO (the CAO) for the site. The CAO ordered
14 RESPONDENTS to “[r]emove all waste and used tires from this site within 15 days from the
15 date of service of this [CAO.]” The CAO further ordered to RESPONDENTS, “At no time may
16 you accept additional waste or used tires at this site for the next 45 days.”

17 21. During an inspection of the site on January 5, 2016, and documented in
18 Inspection Report number IW-1032943, CALRECYCLE inspectors Randy Friedlander, Rob
19 Baumann, and Jean Whalen determined 87,464 WT remained at the site, in violation of the
20 CAO and creating an illegal major WT facility. Inspectors Friedlander, Baumann, and Whalen
21 issued a Notice of Violation to RESPONDENTS for operating a major WT facility without a major
22 WT facility permit. The inspectors also again advised RESPONDENT R&L RECYCLE, INC.,
23 that the RESPONDENTS were required to remove all waste and used tires pursuant to the
24 CAO.

25 22. During the same inspection on January 5, 2016, Inspectors Friedlander,
26 Baumann and Whalen also issued violations for the following sections of Title 14 of the
27 California Code of Regulations: 17351(a), (b), (c)(2), (d)(3), (f); 17353; 17354(a), (b), (c), (d),
28 (e),and (j). Inspector Whalen also noted multiple violations of WT Hauler laws in Chapter 19 of

1 Chapter 19 of Division 30, Part 3, of the PRC and attendant regulations.

2 23. During an inspection of the site on February 17, 2016, and documented in
3 Inspection Report number IW-1034844, CALRECYCLE inspectors Randy Friedlander, Rob
4 Baumann, and Jared Weathers determined 83,082 WT remained at the site, in violation of the
5 CAO and creating an illegal major WT facility. Inspectors Friedlander, Baumann, and Weathers
6 issued a Notice of Violation to RESPONDENTS for operating a major WT facility without a major
7 WT facility. The inspectors also again advised RESPONDENT R&L RECYCLE, INC., that the
8 RESPONDENTS were required to remove all waste and used tires pursuant to the CAO.

9 24. During the same inspection on February 17, 2016, Inspectors Friedlander,
10 Baumann and Weathers also issued violations for the following sections of Title 14 of the
11 California Code of Regulations: 17351(a), (b), (c)(2), (d), (f); 17353(a); 17354(a), (b), (c), (d),
12 (e), (f), (h), and (j). The inspectors also noted multiple violations of WT Hauler laws in Chapter
13 19 of Chapter 19 of Division 30, Part 3, of the PRC and attendant regulations.

14 25. Between September 23, 2015, and January 5, 2016, RESPONDENTS accepted
15 WT at the site on at least 13 occasions while the site was operating as an illegal major WT
16 facility, in violation of PRC section 42824, as documented in the table below:

CTL Form	Violation	Hauler	Load Date
5675196-C	Delivering waste tires to an unauthorized location	R & L Recycle	11/11/2015
5675186-C	Delivering waste tires to an unauthorized location	R & L Recycle	11/10/2015
5675186-B	Delivering waste tires to an unauthorized location	R & L Recycle	11/10/2015
5675187-C	Delivering waste tires to an unauthorized location	R & L Recycle	11/09/2015
5675148-B	Delivering waste tires to an unauthorized location	R & L Recycle	11/06/2015
5675148-C	Delivering waste tires to an unauthorized location	R & L Recycle	11/05/2015
5675161-B	Delivering waste tires to an unauthorized location	R & L Recycle	11/04/2015
5675162-B	Delivering waste tires to an unauthorized location	R & L Recycle	11/03/2015
5675178-B	Delivering waste tires to an unauthorized location	R & L Recycle	11/02/2015
5675187-A	Delivering waste tires to an unauthorized location	R & L Recycle	10/30/2015
5675173-A ///	Delivering waste tires to an unauthorized location	R & L Recycle	10/29/2015

5675145-C	Delivering waste tires to an unauthorized location	R & L Recycle	10/28/2015
5675181-C	Delivering waste tires to an unauthorized location	R & L Recycle	10/27/2015

ALLEGATIONS OF SPECIFIC VIOLATIONS

26. CALRECYCLE seeks administrative penalties of \$985,500.00 pursuant to PRC sections 42850.1(b) and Title 14 CCR section 18429. The administrative penalties are based on the above-mentioned facts, and for the following violations as more specifically set forth in the foregoing paragraphs.

a. For at least 148 days between September 23, 2015, and February 17, 2016, RESPONDENTS violated PRC section 42823 by creating a major WT facility without first obtaining a major WT facility permit.

b. On at least 13 occasions, RESPONDENTS violated PRC section 42823 by accepting waste tires at the site while the site was operating as an illegal major WT facility.

PENALTIES

RESPONDENTS are liable for administrative penalties as set forth in PRC section 42850.1 for intentional violations.

27. CALRECYCLE's authority to assess administrative penalties against RESPONDENTS are set forth in PRC section 42850.1(b), which states:

(b) (1) Any person who intentionally violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter is liable for a civil penalty not to exceed ten thousand dollars (\$10,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(2) Liability under this subdivision may be imposed in a civil action or may be imposed administratively pursuant to this article.

RESPONDENTS are subject to an administrative penalty of up to \$10,000 per violation of a separate provision, or for continuing violations for each day RESPONDENTS continue to be in violation.

1 28. Title 14 CCR section 18429(b) authorizes a base penalty of \$6,000.00 for every
2 day the intentional violation occurs against unpermitted WT facilities that store between 50,000
3 or more WT in excess of their authorized capacity.

4 29. 14 CCR section 18429(b) authorizes a base penalty of \$6,000 for every instance
5 in which an unpermitted WT facility with 50,000 or more WT accepts additional WT.

6 30. Penalties continue to accumulate for every day that RESPONDENTS remains in
7 violation of all WT statutes and regulations.

8 31. Because RESPONDENTS were not authorized to store more than 499 WT
9 onsite, their penalties were calculated using Table 1 of Title 14 CCR section 18429(b), starting
10 with the base penalty of \$6,000 and multiplying by a risk factor of 1.25. For violations of PRC
11 section 42823 the product obtained by multiplying \$6,000 by 1.25 was then multiplied by 148
12 days; for violations of PRC section 42824, the product was then multiplied by 13 occurrences.

13 32. In determining an appropriate administrative penalty for RESPONDENTS,
14 CALRECYCLE has taken into consideration the nature, circumstances, extent and gravity of the
15 violation, RESPONDENTS' past and present efforts to prevent, abate, or clean up conditions
16 posing a threat to the public health or safety or the environment, RESPONDENTS' ability to pay
17 the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty
18 will have on both RESPONDENT and on the regulated community as a whole.

19 33. Pursuant to PRC section 42846.5, the imposition of penalties herein may form
20 the basis for a subsequent CALRECYCLE order permitting CALRECYCLE or its contractor's
21 access to the property mentioned herein to perform cleanup, abatement or remedial work under
22 PRC section 42846. Further, PRC section 42847 authorizes CALRECYCLE to seek recovery of
23 the costs of any cleanup abatement or remedial work.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, CALRECYCLE prays for judgment as follows:

26 1. That an administrative penalty be assessed against RESPONDENTS for
27 \$985,500.00.

28 2. That additional penalties be assessed against RESPONDENTS for continuing

1 violations according to proof, and such other and further relief as the director, or an
2 administrative law judge, if the hearing is converted to a formal hearing, deems just and proper.

3 3. That RESPONDENTS reimburse CALRECYCLE for the costs of additional
4 inspections conducted pursuant to PRC section 42852(b), including the cost of preparing for the
5 inspection, traveling to and from the inspection, and writing the inspection reports.

6
7 **RIGHT TO HEARING**

8 You are hereby notified that pursuant to the provision of PRC section 42851 that you are
9 entitled to a hearing to refute the allegations against you contained in this ADMINISTRATIVE
10 COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES. **If you wish to**
11 **have a hearing on this matter, you must complete and return the enclosed REQUEST**
12 **FOR HEARING/ NOTICE OF DEFENSE to our Legal Office within 15 days of receipt of this**
13 **Administrative Complaint. Failure to complete and return the REQUEST FOR**
14 **HEARING/NOTICE OF DEFENSE within 15 days will be deemed a waiver of your right to a**
15 **hearing.**

16 Pursuant to the above referenced Public Resources Code and Government Code
17 sections, discovery requests by any party must be made within 30 days after the service of this
18 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE
19 PENALTIES.

20
21
22 Dated this 19 day of April, 2016.

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24 
25 HEATHER L. HUNT
26 Attorney III
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