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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10
11 **In the matter of:**

12
13 **WILSON WAY TIRE COMPANY, INC.**

14
15 **RESPONDENT**

16
17 **TPID NO.: 1000837-01**

CASE NO. IH16-002-TIR

**ADMINISTRATIVE DECISION
FOR WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES**

**PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.**

AGENCY NO: 2015-011180-ADC

18
19 **INTRODUCTION AND PROCEDURAL HISTORY**

20 This ADMINISTRATIVE DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE
21 PENALTIES is based on the STIPULATION FOR ISSUANCE OF ADMINISTRATIVE
22 DECISION FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Stipulation) signed
23 by Anthony Mattioli, Representative for Wilson Way Tire Company, Inc. (RESPONDENT), and
24 William Wallace, Esq., Attorney for RESPONDENT on June 20, 2016.

25 On March 8, 2016, CALRECYCLE issued an ADMINISTRATIVE COMPLAINT FOR
26 WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Administrative Complaint) to
27 RESPONDENT, which included penalties in the amount of \$9,950.00. RESPONDENT was
28 provided with 15 days from the date of receipt of the Administrative Complaint to request a

1 hearing and file a "Notice of Defense/Request for Hearing" with CALRECYCLE to refute the
2 allegations contained therein. RESPONDENT requested a hearing on March 31, 2016. A
3 hearing was scheduled for June 22, 2016, in Sacramento, California.

4 Pursuant to the Stipulation, and good cause appearing therefore, the following Factual
5 Findings and Conclusions of Law are made, and the following Order is issued:
6

7 FACTUAL FINDINGS

8 1. The Administrative Complaint was executed by Catherine V. Nystrom, Attorney
9 for CALRECYCLE, acting in her official capacity.

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

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

18 4. The "California Uniform Waste and Used Tire Manifest" is a form developed by
19 CALRECYCLE pursuant to PRC section 42961.5 and is also referred to as the
20 "Comprehensive Trip Log" or "CTL." The CTL form is incorporated in the regulations by 14
21 CCR section 18450(a)(11), and must be filled out completely and accurately, including
22 providing the Tire Program Identification (TPID) number for the location of delivery or pick-up
23 of each load of waste tires.

24 5. Pursuant to PRC section 42961.5(c)(2):

25 Any waste and used tire hauler hauling waste or used tires for
26 offsite handling, altering, storage, disposal, or any combination thereof,
27 shall complete the California Uniform Waste and Used Tire Manifest as
28 required by the board [CALRECYCLE]. The waste and used tire hauler
shall provide the manifest to the waste or used tire facility operator who
receives the waste or used tires for handling, altering, storage, disposal,

1 or any combination thereof. Each waste and used tire hauler shall submit
2 to the board [CALRECYCLE], on a quarterly schedule, a legible copy of
3 each manifest. The copy submitted to the board [CALRECYCLE] shall
4 contain the signatures of the generator and the facility operator.

5 6. Pursuant to 14 CCR section 18459.2.1:

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

15 (b) If approved by the Department [CALRECYCLE] pursuant
16 to PRC section 42961.5, any person that is subject to the
17 requirements set forth in above (a) may substitute their own
18 functionally equivalent EDT [Electronic Data Transfer] form, once
19 approved by the Department [CALRECYCLE], in lieu of the
20 Department [CALRECYCLE] required form and submit an
21 electronic report within ninety (90) days of the load shipment to
22 the Department [CALRECYCLE], in lieu of submitting the required
23 paper form pursuant to Section 18459.1.2. The electronic report
24 shall include all information required to be on the CTL Form.

25 7. 14 CCR section 18459(c)(1) requires waste or used tire haulers, hauling
26 any amount of waste or used tires at any one time in a registered vehicle, to comply
27 with the Waste Tire Manifest System.

28 8. Pursuant to 14 CCR section 18459.2.1(a), "The waste tire hauler shall
submit the completed original CTL Form to the Department within ninety (90) days of
the load shipment..."

9. 14 CCR section 18459(b) requires the CTL form be completed.

10. 14 CCR section 18460.2, subsections (b), (d), (e), and (h), provide that a
registered waste tire hauler shall complete a new CTL for each pick-up or delivery of any
waste or used tires, shall not transport waste or used tires without a properly completed CTL
form, shall not transport waste or used tires without having a completed copy of the CTL form

1 in the vehicle transporting the waste or used tires, shall leave one completed copy of the CTL
2 form with the waste or used tire generator or end-use facility, and shall keep a copy of the
3 completed CTL form.

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

9 12. RESPONDENT became a registered waste tire hauler on March 2, 1998.

10 13. On September 22, 2014, Tire Enforcement Agency (TEA) Inspector Harprit Mattu
11 with San Joaquin County Environmental Health Department conducted an inspection of
12 Ameron Pipe Group (TPID #1370161) located at 10100 West Linne Road, Tracy, CA, and
13 observed seventeen (17) Electronic Data Transfer [EDT] records left by RESPONDENT that
14 had not been submitted to CALRECYCLE at the time of the inspection. Five of these EDT
15 records were subsequently submitted to CALRECYCLE after the inspection, but after the 90-
16 day time period as required by PRC section 42961.5(c)(2). The remaining twelve (12) EDT
17 records were not submitted to CALRECYCLE. Because a CALRECYCLE registered vehicle
18 was used, RESPONDENT was required to use a manifest form for each transaction no matter
19 the amount of tires in the load, pursuant to 14 CCR 18459(c)(1). Inspector Mattu referred the
20 incident to CALRECYCLE's Tire Hauler Compliance Unit in a Hauler Observation Report dated
21 September 22, 2014.

22 14. On December 15, 2014, Inspector Mattu conducted an inspection of Tiger Lines,
23 LLC. (TPID #1411691), located at 927 Black Diamond Way, Lodi, CA and observed thirty-three
24 (33) EDT records left by RESPONDENT that had not been electronically submitted to
25 CALRECYCLE within the 90-day time period as required by PRC section 42961.5(c)(2). This
26 was documented in a December 15, 2014 Hauler Observation Report.

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28 ///

50 COUNTS OF FAILING TO SUBMIT CTL FORMS/EDT RECORDS WITHIN 90 DAYS

15. Between January 28, 2014 and November 17, 2014 RESPONDENT failed to submit CTL Forms/EDT Records within 90 days to CALRECYCLE. The table below highlights the violations by RESPONDENT:

EDT Receipt	Violation	Location Name	Transaction Date	Submittal Date	Violation Date	Penalty Assessed
		Ameron Pipe Group				
175211*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 16, 2014	November 20, 2014	July 15, 2014	\$199
175204*	Failure to submit CTL	Ameron Pipe Group	April 11, 2014	Not Submitted	July 10, 2014	\$199
175123*	Failure to submit CTL form within 90 days	Ameron Pipe Group	April 4, 2014	November 20, 2014	July 3, 2014	\$199
175117*	Failure to submit CTL form within 90 days	Ameron Pipe Group	March 31, 2014	November 20, 2014	June 29, 2014	\$199
174919*	Failure to submit CTL	Ameron Pipe Group	February 18, 2014	Not Submitted	May 19, 2014	\$199
174681*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 21, 2014	November 20, 2014	April 21, 2014	\$199
174675*	Failure to submit CTL form within 90 days	Ameron Pipe Group	January 16, 2014	November 20, 2014	April 16, 2014	\$199
171546*	Failure to submit CTL	Ameron Pipe Group	December 30, 2013	Not Submitted	March 30, 2014	\$199
171525*	Failure to submit CTL	Ameron Pipe Group	December 16, 2013	Not Submitted	March 16, 2014	\$199
171511*	Failure to submit CTL	Ameron Pipe Group	December 9, 2013	Not Submitted	March 9, 2014	\$199
171504*	Failure to submit CTL	Ameron Pipe Group	December 2, 2013	Not Submitted	March 2, 2014	\$199
171392*	Failure to submit CTL	Ameron Pipe Group	November 25, 2013	Not Submitted	February 23, 2014	\$199
171381*	Failure to submit CTL	Ameron Pipe Group	November 18, 2013	Not Submitted	February 16, 2014	\$199
171366*	Failure to submit CTL	Ameron Pipe Group	November 11, 2013	Not Submitted	February 9, 2014	\$199
171019	Failure to submit CTL	Ameron Pipe Group	November 8, 2013	Not Submitted	February 6, 2014	\$199
171355*	Failure to submit CTL	Ameron Pipe Group	November 4, 2013	Not Submitted	February 2, 2014	\$199
171014*	Failure to submit CTL	Ameron Pipe Group	October 30, 2013	Not Submitted	January 28, 2014	\$199
		Tiger Lines, LLC.				
170472	Failure to submit CTL	Tiger Lines LLC.	January 15, 2014	Not Submitted	April 15, 2014	\$199
170475*	Failure to submit CTL	Tiger Lines LLC.	January 22, 2014	Not Submitted	April 22, 2014	\$199
170476*	Failure to submit CTL	Tiger Lines LLC.	January 28, 2014	Not Submitted	April 28, 2014	\$199
169887*	Failure to submit CTL	Tiger Lines LLC.	January 19, 2014	Not Submitted	April 19, 2014	\$199
170477	Failure to submit CTL	Tiger Lines LLC.	February 4, 2014	Not Submitted	May 5, 2014	\$199
170480	Failure to submit CTL	Tiger Lines LLC.	February 19, 2014	Not Submitted	May 20, 2014	\$199
170481*	Failure to submit CTL	Tiger Lines LLC.	March 5, 2014	Not Submitted	June 3, 2014	\$199
170482*	Failure to submit CTL	Tiger Lines LLC.	March 11, 2014	Not Submitted	June 9, 2014	\$199
170486	Failure to submit CTL	Tiger Lines LLC.	March 19, 2014	Not Submitted	June 17, 2014	\$199
170488*	Failure to submit CTL	Tiger Lines LLC.	March 24, 2014	Not Submitted	June 22, 2014	\$199
170491	Failure to submit CTL	Tiger Lines LLC.	March 25, 2014	Not Submitted	June 23, 2014	\$199
170492	Failure to submit CTL	Tiger Lines LLC.	April 1, 2014	Not Submitted	June 30, 2014	\$199
170493*	Failure to submit CTL	Tiger Lines LLC.	April 5, 2014	Not Submitted	July 4, 2014	\$199
170495	Failure to submit CTL	Tiger Lines LLC.	April 7, 2014	Not Submitted	July 6, 2014	\$199
170496*	Failure to submit CTL	Tiger Lines LLC.	April 11, 2014	Not Submitted	July 10, 2014	\$199
170497	Failure to submit CTL	Tiger Lines LLC.	April 15, 2014	Not Submitted	July 14, 2014	\$199
170499	Failure to submit CTL	Tiger Lines LLC.	April 17, 2014	Not Submitted	July 16, 2014	\$199
170500	Failure to submit CTL	Tiger Lines LLC.	April 23, 2014	Not Submitted	July 22, 2014	\$199
175354	Failure to submit CTL	Tiger Lines LLC.	April 29, 2014	Not Submitted	July 28, 2014	\$199
175356	Failure to submit CTL	Tiger Lines LLC.	May 7, 2014	Not Submitted	August 5, 2014	\$199
175358	Failure to submit CTL	Tiger Lines LLC.	May 13, 2014	Not Submitted	August 11, 2014	\$199
175360	Failure to submit CTL	Tiger Lines LLC.	May 20, 2014	Not Submitted	August 18, 2014	\$199
174835	Failure to submit CTL	Tiger Lines LLC.	May 27, 2014	Not Submitted	August 25, 2014	\$199
175361	Failure to submit CTL	Tiger Lines LLC.	June 3, 2014	Not Submitted	September 1, 2014	\$199

EDT Receipt	Violation	Location Name	Transaction Date	Submittal Date	Violation Date	Penalty Assessed
175364	Failure to submit CTL	Tiger Lines LLC.	June 11, 2014	Not Submitted	September 9, 2014	\$199
175365	Failure to submit CTL	Tiger Lines LLC.	June 17, 2014	Not Submitted	September 15, 2014	\$199
175367	Failure to submit CTL	Tiger Lines LLC.	June 25, 2014	Not Submitted	September 23, 2014	\$199
175369*	Failure to submit CTL	Tiger Lines LLC.	July 9, 2014	Not Submitted	September 7, 2014	\$199
175370*	Failure to submit CTL	Tiger Lines LLC.	July 11, 2014	Not Submitted	October 9, 2014	\$199
175371*	Failure to submit CTL	Tiger Lines LLC.	July 15, 2014	Not Submitted	October 13, 2014	\$199
175167	Failure to submit CTL	Tiger Lines LLC.	July 30, 2014	Not Submitted	October 28, 2014	\$199
175375	Failure to submit CTL	Tiger Lines LLC.	August 6, 2014	Not Submitted	November 4, 2014	\$199
175379*	Failure to submit CTL	Tiger Lines LLC.	August 19, 2014	Not Submitted	November 17, 2014	\$199

*Signifies that even though less than 10 waste/used tires were picked up by a CalRecycle Registered vehicle, a manifest form was still required to be completed

KNOWLEDGE OF HAULING AND MANIFESTING REQUIREMENTS

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

17. On July 10, 2015, CALRECYCLE issued RESPONDENT Streamlined Penalty Letter 2015-000554-PEN (SPL). The SPL was received by RESPONDENT on July 13, 2015. The SPL offered RESPONDENT an opportunity to resolve the violations through settlement. The letter explained RESPONDENT's violations and offered an opportunity to avoid the cost and time of the administrative legal process by having RESPONDENT agree to the

1 streamlined penalty process. RESPONDENT was offered a streamlined penalty in the amount
2 of \$2,500.00. RESPONDENT was given 15 days from the receipt of the SPL to respond to
3 CALRECYCLE.

4 18. On August 4, 2015, CALRECYCLE issued RESPONDENT a reminder letter
5 advising RESPONDENT that CALRECYCLE needed a response on the streamlined penalty
6 offer and extended the response date to August 18, 2015.

7 19. On August 31, 2015, a CALRECYCLE Program Technician with the Tire Hauler
8 Compliance Unit contacted RESPONDENT via telephone. During the call, Ms. Kitty Green, an
9 agent and/or employee of RESPONDENT, stated that she felt the SPL had been previously
10 resolved.

11 20. Immediately following the August 31, 2015 telephone call, Keith Cambridge,
12 Supervisor of the Tire Hauler Compliance Unit for CALRECYCLE, sent an email message to
13 Ms. Green emphasizing that the violations cited in the SPL had not been resolved and that
14 SPL was still active. Ms. Green responded that she would discuss the SPL with her
15 supervisor. No further response was made by RESPONDENT.

16 17 **CONCLUSIONS OF LAW**

18 21. RESPONDENT knowingly violated PRC section 42961.5(c)(2) by failing to
19 submit CTL forms or EDT records within 90 days of tire shipments to CALRECYCLE.

20 21 **ORDER**

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

24 23. Pursuant to the terms and conditions of the Stipulation, and subject to the
25 limitations hereunder, an administrative penalty is issued against RESPONDENT and in favor
26 of CALRECYCLE in the sum of \$9,950.00 for the violations set forth in the Stipulation.

27 Payment of the penalty shall be satisfied in the following manner:

28 (a) RESPONDENT shall pay \$5,000.00 to CALRECYCLE in accordance with the

1 following:

- 2 i. RESPONDENT shall make installment payments to CALRECYCLE of
3 \$500.00, each month with the first payment due on the 60th day after the
4 effective date of this Administrative Decision issued pursuant to the
5 Stipulation, until the total amount of said payment totals \$5,000.00.
- 6 ii. If any payment by RESPONDENT is not mailed to CALRECYCLE by the due
7 date, and if RESPONDENT fails to cure the missed payment(s) within twenty
8 (20) days of said missed payment RESPONDENT shall be found in partial
9 default of the Stipulation. The partial default amount due shall be calculated
10 to include the amount owed from the missing payment(s) plus a 10% late
11 penalty and interest. CALRECYCLE may seek recovery of this amount
12 through RESPONDENT's Waste and Used Tire Hauler Registration Bond.
- 13 iii. All payments shall be made to CALRECYCLE, Attn: Richard Guess, at P. O.
14 Box 4025, Sacramento, CA 95812-4025, or to such other person and/or
15 place as CALRECYCLE or its agent may from time to time designate in
16 writing.
- 17 iv. \$4,950.00 of this administrative penalty shall be stayed and held in abeyance
18 for a period of three years. The stayed penalty shall be deemed terminated
19 and shall not be paid by RESPONDENT to CALRECYCLE following the
20 three-year period absent a default as described.

21 24. RESPONDENT shall maintain a manifest error rate of 7% or less for the entire
22 abeyance period to avoid a full default.

23 25. RESPONDENT shall comply with all other laws related to waste tire storage and
24 waste tire haulers set forth in PRC section 42800 et seq., PRC section 42950 et seq., and Title
25 14 of the CCR. A violation of any law related to waste tire storage and waste tire haulers that
26 is not described by a separate provision of the Stipulation shall constitute a partial default of
27 the Stipulation.

28 26. If CALRECYCLE determines that RESPONDENT has violated any waste tire

1 storage laws, or waste tire hauler laws by creating a new waste tire facility (WTF) with any
2 amount of waste tires onsite, CALRECYCLE will be required to inspect the WTF at an
3 increased frequency, at least monthly, until RESPONDENT comes into compliance.
4 RESPONDENT will grant access for these additional inspections, and will reimburse
5 CALRECYCLE for the cost of those inspections (including time preparing for the inspection,
6 traveling to the site, and preparing and writing any Inspection Report). Additionally, after
7 compliance has again been regained, CALRECYCLE will inspect the WTF twice a year for the
8 remainder of the abeyance period, and RESPONDENT will reimburse CALRECYCLE for the
9 additional inspections (including time preparing for the inspection, traveling to the site, and
10 preparing and writing any Inspection Report). Failure to grant access to inspectors, or failure
11 to reimburse CALRECYCLE for an inspection within 30 days of an invoice shall be deemed a
12 full default of the Stipulation.

13 27. **Default:** If RESPONDENT defaults under any of the terms of the Stipulation,
14 CALRECYCLE shall send a Notice of Default to RESPONDENT; said Notice of Default shall
15 state the paragraphs or provisions of the Stipulation of which RESPONDENT is in default and
16 the abeyance amount owed. RESPONDENT shall have 30 days from the date of the issuance
17 of the Notice of Default to provide evidence refuting CALRECYCLE's claim of default. After a
18 review of the evidence provided by RESPONDENT, CALRECYCLE shall make a
19 determination regarding the default and, if appropriate, shall issue a Supplemental Decision
20 regarding any remaining penalties due.

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

24 ii. **Partial Default:** In the event of a partial default, CALRECYCLE shall state the
25 amount of abeyance due, in accordance with the penalty amounts prescribed in
26 Public Resources Code sections 42850, 42850.1, 42962 and 14 CCR sections
27 18429 and 18464, when it sends its default notice. Upon review of counter
28 arguments, CALRECYCLE shall either advise RESPONDENT that it has

1 determined no default occurred, or shall issue an invoice ordering
2 RESPONDENT to pay the specific penalty within 30 days. A partial default shall
3 apply to any violations of waste tire storage or waste tire hauler laws not
4 specifically stated as a full default above set forth in PRC section 42800 et seq.,
5 PRC section 42950 et seq., and Title 14 of the CCR. Penalties for partial default
6 shall be calculated as a "second offense." Failure to remit payment of a partial
7 default shall constitute a full default.

8 28. RESPONDENT shall abide by all of the terms and conditions set forth in the
9 Stipulation.

10
11 This Administrative Decision shall become effective as of the date signed below:

12
13
14 Dated: _____

6/24/16



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