

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

8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 In the matter of:) STATEMENT OF ISSUES FOR THE DENIAL
11 FREEDOM TIRE INC.) OF THE MINOR WASTE TIRE FACILITY
12) PERMIT
13 TPID NO. 1639531-01) PUBLIC RESOURCES CODE SECTION
14) 42843
15)
16) AGENCY NO: 2012-000113-DEN
17)

18 **INTRODUCTION**

19
20 This Department of Resources Recycling and Recovery (CALRECYCLE) Statement of Issues is
21 seeking the DENIAL for three years of the Minor Waste Tire Facility Permit of FREEDOM TIRE INC.,
22 (RESPONDENT), located at 1315 South Claudina Street, Anaheim, California, 92805, in accordance
23 with Public Resources Code (PRC) 42843. The denial of the permit is requested based on the following
24 facts.

25 **STATEMENT OF FACTS**

26
27 1. Pursuant to PRC section 42800 et seq., and attendant regulations contained in Title 14
28 of the California Code of Regulations (CCR), CALRECYCLE has authority to inspect, permit, regulate

1 and conduct enforcement actions against Waste Tire Facilities (WTF) within the State of California.

2 2. Pursuant to section 42843 of Division 30, Part 3, Chapter 16 of the PRC (Chapter 16):

3 (a) [CALRECYCLE], after holding a hearing in accordance with the procedures set forth in
4 Sections 11503 to 11519, inclusive, of the Government Code, may revoke, suspend, or deny a
5 waste tire facility permit for a period of up to three years, if [CALRECYCLE] determines any of
6 the following:

7 . . . (2) The operator of the waste tire facility, during the previous three years, has been
8 issued a final order for, failed to comply with, or has been convicted of, any of the
9 following:

10 (A) One or more violations of this chapter [16] or the regulations adopted
11 pursuant to this chapter.

12 (B) One or more violations of Chapter 19 (commencing with Section 42950) or
13 the regulations adopted pursuant to that chapter.

14 (C) The terms or conditions of the operator's waste tire facility permit.

15 (D) Any order, direction, or penalty issued by [CALRECYCLE] relating to the safe
16 storage or processing of waste tires. . . .

17 3. On or about December 28, 2011, RESPONDENT filed Waste Tire Facility Permit
18 Application (Application) requesting a permit to operate a minor WTF on a site located at 1315 South
19 Claudina Street, Anaheim, California, 92805 (the site). RESPONDENT supplied amended information
20 to the Application in January 2012.

21 **I. Denial of the Permit Application is appropriate because RESPONDENT violated Chapter**
22 **16 of Division 30 of the PRC and failed to comply with a final order issued by**
23 **CALRECYCLE.**

24 4. Since at least August, 2011, RESPONDENT has operated as a used tire dealer at the
25 site, as that term is defined in 14 CCR section 17225.820. PRC section 42808 defines minor and major
26 WTFs as follows:

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

(c) "Minor waste tire facility" means a waste tire facility where, at any time, 500 or more,
but less than 5,000, waste tires are or will be store, stockpiled, accumulated, or
discarded. However, a "minor waste tire facility" does not include a tire dealer or an
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
more than 1,500 total used or waste tires are ever accumulated on the dealer's or
dismantler's premises.

5. PRC section 42834 makes it "unlawful to direct or transport waste tires to a minor waste
tire facility or to accept waste tires at a minor waste tire facility unless the operator has obtained a minor
waste tire facility permit."

1 6. Pursuant to PRC section 42823, "no person shall establish a new major waste tire facility
2 or expand an existing minor waste tire facility unless the person has obtained a major waste tire facility
3 permit issued by [CALRECYCLE] pursuant to Section 42822."

4 7. Pursuant to 14 CCR section 18420(a)(7), a WTF that is a tire dealer may store up to
5 1,500 waste tires on the tire dealer's site for less than 90 days without being required to obtain a WTF
6 permit.

7 8. At no time from August 2011, to present has RESPONDENT been in possession of
8 either a major or a minor WTF permit. As RESPONDENT has not been in possession of WTF Permit,
9 RESPONDENT is required to maintain 1500 or less waste tires on the site pursuant to PRC section
10 42808(c) and 14 CCR section 18420(a)(7).

11 9. During an inspection of the site on August 11, 2011, and documented in Waste Tire
12 Survey and Inspection Report (Inspection Report) number I1-1169238, CALRECYCLE inspectors
13 Harley Thompson, Vance Tracy, and Frank Simpson observed at least 4,546 waste tires onsite,
14 thereby making the site an unpermitted minor WTF, in violation of PRC section 42834.

15 10. During an inspection of the site on October 11, 2011, and documented in Inspection
16 Report number I1-1169038, inspectors Harley Thompson, Vance Tracy, and Frank Simpson observed
17 at least 2,841 waste tires onsite in violation PRC section 42834 and 14 CCR section 18420. According
18 to notes stated in the Inspection Report, the inspectors again observed that both RESPONDENT and
19 IRC, LLC., were located at the site; according to notes stated in the Inspection Report:

20 Their operations appeared to CalRecycle staff to be commingled. There was no clear
21 demarcation between the aforementioned companies.

22 11. During the same inspection on October 11, 2011, described in paragraph 10 above, the
23 inspectors also observed waste tires stored with their rims still intact, in violation of 14 CCR section
24 17354(g), waste tires stored along the north west corner of the facility and tires stored east of the pile
25 between two trailers backed up against the stairs of the loading dock and less than 40 feet from
26 potentially flammable material, in violation 14 CCR section 17354(a) and (b).

27 12. On December 21, 2011, CALRECYCLE served Cleanup and Abatement Order number
28 2011-011001-CAO (CAO) on RESPONDENT. In order to ensure that CALRECYCLE could attribute

1 waste or used tires on site to the appropriate party responsible for bringing them to the site, the CAO
2 ordered RESPONDENT and IRC International Recycling Center, LLC., to stop commingling their
3 businesses and to create a permanent demarcation at the site to designate the separate businesses,
4 as follows:

- 5 1. Cease violation of waste tire storage laws, including the creation of illegal waste tire facilities,
6 pursuant to PRC section 42808.
- 7 2. Create and maintain a distinct, permanent, physical delineation between [RESPONDENT]'s
8 operations and IRC INTERNATIONAL RECYCLING CENTER, LLC's operations.
 - 9 (a) This delineation may take the form of a painted line, fence-like structure, or any other
10 form that is clearly visible and apparent to any CalRecycle staff or agent thereof at all
11 times. CalRecycle shall presume that any used or waste tires onsite belong to the
12 operator within whose delineated boundary the used or waste tires are located at the
13 time of inspection or observation.
 - 14 (b) If [RESPONDENT] opts to operate inside the building onsite, but uses a loading dock
15 outside the building, [RESPONDENT] shall include room for said loading dock and any
16 trucks operated by [RESPONDENT] within the borders of the physical delineation
17 showing the area onsite maintained by [RESPONDENT]
- 18 3. Label any and all sea containers, trucks, or trailers on site as belonging to, delivering to, or
19 picking up from, either [RESPONDENT] or IRC INTERNATIONAL RECYCLING CENTER, LLC.
20 The label may or may not be permanent, but shall be placed on said sea container, truck, or
21 trailer as soon as said sea container, truck, or trailer enters the site premises, and shall remain
22 until said sea container, truck, or trailer leaves the site. The label shall be readily apparent and
23 easily readable by CalRecycle staff or an agent thereof. Where no label is apparent,
24 CalRecycle staff shall presume any used or waste tires located within the sea containers,
25 trucks, or trailers are being stored by the operator within whose delineated boundary the sea
26 container, truck, or trailer is located at the time of inspection or observation.
- 27 4. Maintain separate and distinct business records for [RESPONDENT] and IRC
28 INTERNATIONAL RECYCLING CENTER, LLC.
5. Remove the amount of waste tires specified in the following subparagraphs (a) and (b) from the
premises within 30 days from the date of service of this Clean Up and Abatement Order (CAO),
in accordance with the waste tire removal schedule in the following subparagraph (c):
 - (a) [RESPONDENT] shall remove enough waste tires so that no more than 1500 remain
within [RESPONDENT]'s, delineated area of the site.
 - (b) IRC INTERNATIONAL RECYCLING CENTER, LLC., shall remove enough waste tires
so that no more than 499 remain within IRC INTERNATIONAL RECYCLING CENTER,
LLC.'s delineated area of the site.
 - (c) Waste Tire Removal Schedule
 - (1) Waste tires shall be removed from the premises. CalRecycle must approve the
destinations of the tires to ensure that a registered waste tire hauler legally
transports them to an approved facility.
 - (2) All waste tires (whole and/or passenger tire equivalents, pursuant to Title 14 of
the CCR, section 17225.770) shall be removed by a registered waste tire
hauler, as prescribed by PRC section 42950 et seq., within 30 days from the
date of service of this CAO. A completed Comprehensive Trip Log (CTL),
CalRecycle 203, manifest form must accompany each load and a copy of each
completed CTL form must be submitted to CalRecycle within 45 days from the
date of service of this CAO. Failure to comply with this provision may result in
penalties, pursuant to PRC sections 42961.5 and 42962.

1 13. During an inspection of the site on February 21, 2012, and documented in Inspection
 2 Report number I1-1168931, inspectors Harley Thompson and Elizabeth Randolph observed at least
 3 2,251 waste tires, in violation of PRC section 42834, 14 CCR section 18420, and the CAO.

4 14. At no time between the service of the CAO and the present has RESPONDENT
 5 submitted CTL Receipts to CALRECYCLE showing the removal of waste tires from the site, in violation
 6 of paragraph 5(c)(2) of the CAO. Also, at no time between the service of the CAO and the present has
 7 RESPONDENT provided CALRECYCLE with potential sites to accept said removed waste tires, in
 8 violation of paragraph 5(c)(1) of the CAO.

9 **II. Denial of the Application is appropriate because RESPONDENT violated Chapter 19 of**
 10 **Division 30 of the PRC on multiple occasions.**

11 15. PRC section 42953 states:

12 Any person who gives, contracts, or arranges with another person to transport waste or used
 13 tires shall utilize only a person holding a valid waste and used tire hauler registration from
 [CALRECYCLE], unless the hauler is exempt as specified in Section 42954.

14 16. On or about July 16, 2012, Keith Cambridge, Supervisor of the Hauler Unit of
 15 CALRECYCLE, performed an audit of CTL Receipts documenting the delivery to and pick-up from the
 16 site of waste or used tires. Mr. Cambridge determined that at least the 18 separate loads of waste or
 17 used tires in the following table were hauled to or picked-up from the site.

TPID	Hauler Name	CTL Form	Date of Haul	Violation	pte
1459491	M & R Mufflers and Brakes 1921 S Del Mar Ave San Gabriel, CA 91776	4369012-C	3/2/12	Unregistered Tire Hauler	30
		4369019-B	3/9/12	Unregistered Tire Hauler	40
		4556672-C	4/26/12	Unregistered Tire Hauler	75
		4556682-B	4/19/12	Unregistered Tire Hauler	20
1675257	El Primo Auto Tire 1446 S Flower St Santa Ana, CA 92707	4369012-B	3/1/12	Unregistered Tire Hauler	57
Unknown	La Cruz 626-213-8093	4369021-A	3/6/12	Unregistered Tire Hauler	96
		4556497-A	5/15/12	Unregistered Tire Hauler	137
		4556686-A	3/20/12	Unregistered Tire Hauler	91
		4556699-B	3/12/12	Unregistered Tire Hauler	79
1664013	King's Tire 9041 Katella Ave Ste A Anaheim, CA 92804	4369024-A	3/2/12	Unregistered Tire Hauler	15
		4556674-B	3/27/12	Unregistered Tire Hauler	14
		4556683-A	4/20/12	Unregistered Tire Hauler	14
1667135	Superior Tire Service 2551 E Orangethorpe Ave Fullerton, CA 92831	4556495-C	5/17/12	Unregistered Tire Hauler	16
		4556680-A	4/23/12	Unregistered Tire Hauler	13
1509256	Arnolfo's Auto Repair 661-599-8843	4556500-A	5/9/12	Unregistered Tire Hauler	59

1577045	Martinez Tires & Wheels 1644 W Lincoln Ave Anaheim, CA 92801	4556653-C	4/2/12	Unregistered Tire Hauler	23
1715149	New Generation Auto Repair Muffler & Tire 25081 Front St Lake Forest, CA 92630	4556661-B 4556673-C	4/13/12 3/28/12	Unregistered Tire Hauler Unregistered Tire Hauler	23 52

At no time has M&R Mufflers and Brakes, El Primo Auto Tire, La Cruz, King's Tire, Superior Tire Service, Arnolfo's Auto Repair, Martinez Tires and Wheels, or New Generation Auto Repair Muffler and Tire been in possession of a valid waste and used tire hauler registration or been exempt from the registration requirement pursuant to PRC section 42954. Also, note in the table above, the acronym "pte" refers to "passenger tire equivalents."

ALLEGATIONS OF SPECIFIC VIOLATIONS

17. CALRECYCLE is seeking the DENIAL of RESPONDENT's Minor Waste Tire Facility Permit for three years pursuant to PRC section 42843(a)(2) based on the above-mentioned facts and for the reasons set forth in the foregoing paragraphs:

- a. On at least three separate occasions, the operator for RESPONDENT violated Chapter 16, PRC section 42834, by directing or transporting waste tires to a minor waste tire facility or accepting waste tires at a minor WTF without first obtaining a minor WTF permit.
- b. On at least one occasion, RESPONDENT failed to comply with CAO number 2011-011001-CAO, an order issued by CALRECYCLE relating to the safe storage or processing of waste tires.
- c. On at least 18 separate occasions, RESPONDENT contracted with an unregistered hauler to pick-up loads of 10 or more waste or used tires from the site.

1 **RIGHT TO HEARING**

2

3 You are hereby notified that pursuant to the provisions of section 42843 of the California Public

4 Resources Code and Government Code section 11506, you are entitled to a hearing to refute the

5 allegations against you contained in this Statement of Issues. **If you wish to have a hearing on this**

6 **matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal**

7 **Office within 15 days of receipt of this notice. Failure to complete and return the REQUEST FOR**

8 **HEARING within 15 days will be deemed a waiver of your right to a hearing.**

9 Pursuant to the above referenced Public Resources Code and Government Code

10 sections, discovery requests by any party must be made within thirty days after the service of this

11 Denial of the Minor Waste Tire Facility Permit.

12

13 Dated this 19 day of July, 2012.

14 

15 HEATHER L. HUNT

16 Staff Counsel III

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of:

FREEDOM TIRE INC.

TPID NO. 1639531-01

RESPONDENT.

REQUEST FOR A HEARING

AGENCY NO: 2012-000113-DEN

I, _____, in the above-entitled proceeding, acknowledge receipt of a copy of the STATEMENT OF ISSUES FOR THE DENIAL OF THE MINOR WASTE TIRE FACILITY PERMIT.

I hereby request a hearing to permit me to present my defense to the charges contained in said STATEMENT OF ISSUES FOR THE DENIAL OF THE MINOR WASTE TIRE FACILITY PERMIT.

All correspondence concerning this proceeding should be sent to the following address:

(If you are represented by an attorney, all correspondence concerning this matter will be sent to the attorney.)

Address: _____ Telephone: _____

City: _____ State: _____ Zip Code: _____

Signature: _____

Date: _____

Please send to:

CalRecycle Legal Office
Attention: Gloria Bell
P.O. Box 4025, MS 24-B
Sacramento, CA 95812-4125



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

RIGHT TO A HEARING

Your are hereby notified that pursuant to the provisions of Section 42960 of the California Public Resources Code that you are entitled to a hearing to refute the allegations against you contained in the STATEMENT OF ISSUES FOR THE DENIAL OF THE MINOR WASTE TIRE FACILITY PERMIT. **If you wish to have a hearing on this matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal Office within 15 days of receipt of this notice. Failure to complete and return the REQUEST FOR HEARING within 15 days will be deemed a waiver of your right to a hearing.**

HEARING PROCEDURES

If you request one, a hearing will be conducted before an Administrative Law Judge of the Office of Administrative Hearings of the Department of General Services, at one of their office locations throughout the State, upon the charges made in the STATEMENT OF ISSUES FOR THE DENIAL OF THE MINOR WASTE TIRE FACILITY PERMIT.

1. You may be present at the hearing.
2. You have the right to be represented by an attorney at your own expense.

You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel.



3. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you.
4. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings.
5. Pursuant to 1 California Code of Regulations, section 1032, parties are entitled, upon request, to be provided with the assistance of an interpreter if they do not proficiently speak or understand the English language. If you require the assistance of an interpreter, timely notice of this fact should be given to our office so that appropriate arrangements can be made.
6. You are hereby further notified that pursuant to the provisions of 14 CCR section 17050 et seq. the violations alleged against you may cause you to be placed on the CalRecycle's Unreliable Contractors, Subcontractors, Borrowers, and Grantees list. Placement on this list may prohibit you from obtaining contracts, loans, or grants from the CalRecycle for a period up to three years.
7. Continuances are not favored. If you need a continuance, write or call immediately to the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California 90013 (213) 576-7200. That agency has control of continuances. Requests without good cause will be denied.