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8 STATE OF CALIFORNIA

9 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 In the matter of:

11 SAC SCRAP, LLC.

12 TPID NO. 1671894-01

13 RESPONDENT.

) STATEMENT OF ISSUES FOR THE DENIAL
OF THE MINOR WASTE TIRE FACILITY
PERMIT

) PUBLIC RESOURCES CODE SECTION
42843

) AGENCY NO: 2011-000107-DEN

14 INTRODUCTION

15 This Department of Resources Recycling and Recovery (CALRECYCLE) Statement of Issues is
16 seeking the DENIAL for three years of the Minor Waste Tire Facility Permit of SAC SCRAP, LLC.,
17 (RESPONDENT), located at 1679 Enterprise Blvd, Suite 40, West Sacramento, California 95691, in
18 accordance with Public Resources Code (PRC) 42843. The denial of the permit is requested based on
19 the following facts.

20 STATEMENT OF FACTS

21 1. Pursuant to PRC section 42800 et seq., and attendant regulations contained in Title 14
22 of the California Code of Regulations (CCR), CALRECYCLE has authority to inspect, permit, regulate
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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 October 24, 2011, RESPONDENT filed Waste Tire Facility Permit Application
18 number 1671894 (Application) requesting a permit to operate a minor WTF on a site located at 1679
19 Enterprise Blvd., Suite 40, West Sacramento, California 95691 (the site). On the Application,
20 RESPONDENT listed Julie He as the facility operator. The Application requested CALRECYCLE to
21 authorize RESPONDENT to store up to 4,999 waste tires on the site.

22 4. PRC section 42808 defines minor and major WTFs as follows:

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

25 (c) "Minor waste tire facility" means a waste tire facility where, at any time, 500 or more,
26 but less than 5,000, waste tires are or will be store, stockpiled, accumulated, or
27 discarded. However, a "minor waste tire facility" does not include a tire dealer or an
28 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 42824 makes it "unlawful to direct or transport waste tires to a major waste
tire facility or to accept waste tires at a major waste tire facility unless the operator has obtained a major
waste tire facility permit."

6. 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."

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1 7. 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 **I. Denial of the Application is appropriate because the operator for RESPONDENT**
5 **violated Chapter 16 of the PRC at the site on multiple occasions, and failed to comply with a**
6 **Clean Up and Abatement Order, at the site.**

7 8. At no time has RESPONDENT been in possession of a Major or a Minor WTF Permit for
8 the site. Hence, RESPONDENT has been aware, since at least October 6, 2011, that it must maintain
9 a waste tire count of 499 or less in order to comply with the requirements set forth in Chapter 16,
10 starting at section 42800, of the PRC, and attendant regulations set forth in Title 14 of the CCR.
11 RESPONDENT has alleged that it should be allowed to store up to 1,500 waste tires onsite, pursuant to
12 PRC section 42808(c) and 14 CCR section 18420(e). However, based on observations made during
13 inspections and a review of Comprehensive Trip Logs documenting the amount of used and waste tires
14 picked up from and delivered to the site, CALRECYCLE has determined that RESPONDENT does not
15 meet the definition of a used tire dealer set forth in 14 CCR section 17225.820. CALRECYCLE issued
16 a letter to RESPONDENT on March 5, 2012, advising it that it is not a used tire dealer. RESPONDENT
17 provided additional information to CALRECYCLE, but CALRECYCLE has determined that the
18 information provided was insufficient to alter CALRECYCLE's initial determination.

19 9. During an inspection of the site on October 6, 2011, and documented in Waste Tire
20 Survey and Inspection Report (Inspection Report) number I1-1223335, Bahram Kavousi, waste tire
21 inspector with the Yolo County Environmental Health Division, observed 7,900 waste tires, in violation
22 of PRC sections 42824 and 42823. Inspector Kavousi issued a notice of violation and required
23 RESPONDENT to reduce the waste tire count onsite to 499 or less by November 6, 2011.

24 10. During an inspection of the site on November 10, 2011, and documented in Inspection
25 Report number I1-1223292, conducted by Inspector Kavousi and CALRECYCLE Inspector Dorothy
26 Woody, Inspector Kavousi observed 1,920 waste tires, in violation of PRC section 42834.

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1 11. During a pre-permit inspection of the site on November 30, 2011, and documented in
2 Inspection Report number I1-1223279, conducted by Inspector Kavousi, and CALRECYCLE Inspectors
3 Dorothy Woody, Nancy Fallen, and Lynn Smith, Inspector Kavousi observed 200 waste tires.

4 12. During an inspection of the site on December 6, 2011, and documented in Inspection
5 Report number I1-1223326, Inspector Kavousi observed 1,900 waste tires, in violation of PRC section
6 42834. Inspector Kavousi issued notice of violation and ordered RESPONDENT to bring the site into
7 compliance by December 12, 2011. During a follow-up inspection of the site on December 13, 2011,
8 and documented in Inspection Report number I1-1223269, Inspector Kavousi observed 210 waste tires.

9 13. During an inspection of the site on December 19, 2011, and documented in Inspection
10 Report number I1-1223261, Inspector Kavousi observed 570 waste tires, in violation of PRC section
11 42834.

12 14. On January 11, 2012, CALRECYCLE served Clean Up and Abatement Order (CAO)
13 Number 2011-011006-CAO on RESPONDENT. Said CAO ordered RESPONDENT to "[r]educe and
14 maintain the number of waste tires from the premises so that no more than 499 waste tires are on this
15 site within 15 days from the date of service"

16 15. On March 5, 2012, CALRECYCLE issued a letter to RESPONDENT advising
17 RESPONDENT that based on information in CALRECYCLE's possession, CALRECYCLE had
18 determined that RESPONDENT was not a used tire dealer.

19 16. During an inspection of the site on March 13, 2012, and documented in Inspection
20 Report number IW-1001471, conducted by CALRECYCLE Inspectors Dorothy Woody and Donald Van
21 Dyke, and Inspector Kavousi, Inspector Van Dyke observed 750 waste tires, in violation of CAO
22 Number 2011-011006-CAO and PRC section 42834.

23 **II. Denial of the Application is appropriate because the operator for RESPONDENT**
24 **committed multiple violations of Chapter 16 of the PRC, and failed to comply with a Clean Up**
25 **and Abatement Order issued at a separate location.**

26 17. RESPONDENT's operator, Julie He, has also been the operator of a separate WTF
27 operating under the name of Oakland Scrap, LLC., located at 851 81st Avenue, Suite C4, Oakland, CA,
28 94621 (Oakland Scrap) from the time period starting on or before April, 2011 through present.

1 18. At no time from April, 2011 to the present has the operator of Oakland Scrap, Julie He,
2 obtained either a Major or a Minor WTF Permit for Oakland Scrap. A Minor WTF Permit Application
3 was submitted for Oakland Scrap on November 1, 2011, but CALRECYCLE rejected the application on
4 December 1, 2011, pursuant to 14 CCR sections 18423 and 18431, because said application lacked
5 required supporting materials. In said permit application, Oakland Scrap listed Julie He as its operator.

6 19. During an inspection of Oakland Scrap on May 18, 2011, and documented in Inspection
7 Report number I1-1167851, Steven Plunkett and Paresh Khatri, waste tire inspectors for the Alameda
8 County Environmental Health Department, observed 11,715 waste tires in violation of PRC sections
9 42824 and 42823. Inspectors Plunkett and Khatri issued notice of violation to Oakland Scrap and
10 required them to bring Oakland Scrap into compliance by June 17, 2011. During a follow-up inspection
11 of Oakland Scrap on June 24, 2011, and documented in Inspection Report Number I1-1167787,
12 conducted by Inspectors Plunkett and Khatri, along with CALRECYCLE enforcement staff members,
13 Barbara Strough, Mary LeClaire, and Katie Bruner-Benson, Inspectors Plunkett and Khatri observed
14 334 waste tires.

15 20. During an inspection of Oakland Scrap on September 28, 2011, and documented in
16 Inspection Report number I1-1129286, Inspector Plunkett observed 5,197 waste tires onsite, in
17 violation of PRC sections 42824 and 42823.

18 21. On or before November 1, 2011, CALRECYCLE served CAO number 2011-010997-
19 CAO on Oakland Scrap. Said CAO ordered Oakland Scrap to cease violation of waste tire storage
20 laws and to reduce the amount of waste tires onsite to no more than 499 within 30 days of the date of
21 service.

22 22. During an inspection of Oakland Scrap on December 13, 2011, and documented in
23 Inspection Report number I1-1129267, conducted by Inspector Steven Plunkett and CALRECYCLE
24 Inspector Mary LeClaire, Inspector Plunkett observed 10,654 waste tires, in violation of PRC sections
25 42824 and 42823, and CAO number 2011-010997-CAO.

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1 ALLEGATIONS OF SPECIFIC VIOLATIONS

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

5 (a) On at least four separate occasions, the operator for RESPONDENT violated Chapter
6 16, PRC section 42824, by directing or transporting waste tires to a major waste tire
7 facility or accepting waste tires at a major WTF without first obtaining a major WTF
8 permit.

9 (b) On at least four separate occasions, the operator for RESPONDENT violated Chapter
10 16, PRC section 42823, by establishing a new major waste tire facility or expanding an
11 existing minor waste tire facility without first obtaining a major waste tire facility permit
12 issued by [CALRECYCLE] pursuant to Section 42822.

13 (c) On at least four separate occasions, the operator for RESPONDENT violated Chapter
14 16, PRC section 42834, by directing or transporting waste tires to a minor waste tire
15 facility or accepting waste tires at a minor WTF without first obtaining a minor WTF
16 permit.

17 (d) On at least one occasion, RESPONDENT failed to comply with CAO number 2011-
18 011006-CAO, an order issued by CALRECYCLE relating to the safe storage or
19 processing of waste tires.

20 (e) On at least one occasion, RESPONDENT failed to comply with CAO number 2011-
21 010997-CAO, an order issued by CALRECYCLE relating to the safe storage or
22 processing of waste tires.

23 RIGHT TO HEARING

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25 You are hereby notified that pursuant to the provisions of section 42843 of the California Public
26 Resources Code and Government Code section 11506, you are entitled to a hearing to refute the
27 allegations against you contained in this Statement of Issues. **If you wish to have a hearing on this**
28 **matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal**

1 Office within 30 days of receipt of this notice. Failure to complete and return the REQUEST FOR
2 HEARING within 30 days will be deemed a waiver of your rights to a hearing.

3 Pursuant to the above referenced Public Resources Code and Government Code
4 sections, discovery requests by any party must be made within thirty days after the service of this
5 Denial of the Minor Waste Tire Facility Permit.

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7 Dated this 17 day of May, 2012.

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9 HEATHER L. HUNT
10 Staff Counsel III