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8
9 STATE OF CALIFORNIA
10 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

11 **In the Matter of:**

12 **WATTS LABOR COMMUNITY ACTION**

13 **COMMITTEE, Property Owner,**

14 **and**

15 **D & M TIRE SOLUTIONS, LLC.**

16 **TPID NO. 1668808**

17 **RESPONDENTS.**

Case No. IH13-004-TIR

**ADMINISTRATIVE DECISION
PURSUANT TO STIPULATION FOR
WASTE TIRE STORAGE
ADMINISTRATIVE PENALTIES**

**PUBLIC RESOURCES CODE
SECTION 42850, ET SEQ.**

Agency No: 2012-011133-ADC

18
19
20 **INTRODUCTION**

21 The California Department of Resources Recycling and Recovery
22 (CALRECYCLE) has authority to regulate and conduct enforcement actions regarding
23 Waste Tire Haulers and Waste Tire Facilities within the State of California under Public
24 Resources Code (PRC) sections 42962 et seq., and attendant regulations contained in
25 Title 14 of the California Code of Regulations (CCR). This ADMINISTRATIVE
26 DECISION PURSUANT TO STIPULATION FOR WASTE TIRE STORAGE
27 ADMINISTRATIVE PENALTIES (Administrative Decision) is based on the
28 STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION FOR WASTE TIRE

1 STORAGE ADMINISTRATIVE PENALTIES (Stipulation) signed by Timothy Watkins,
2 representative, RESPONDENT WATTS LABOR COMMUNITY ACTION COMMITTEE,
3 Property Owner (WLCAC), on July ____, 2013.

4 On April 5, 2013, an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE
5 STORAGE ADMINISTRATIVE PENALTIES (Administrative Complaint) for \$16,750.00
6 was issued to RESPONDENTS D & M TIRE SOLUTIONS, LLC. and WATTS LABOR
7 COMMUNITY ACTION COMMITTEE, Property Owner (WLCAC). To avoid the time,
8 expense, and uncertainties of litigation, RESPONDENT WLCAC and CALRECYCLE
9 stipulated to the Factual Findings, Conclusions of Law, and Order set forth in the
10 Stipulation to resolve the issues contained in the Administrative Complaint.

11 Pursuant to the Stipulation, and good cause appearing therefore, the following
12 Findings of Fact and Conclusions of Law are made:

13
14 **FINDINGS OF FACT**

15 1. The Administrative Complaint was executed by MARTHA PEREZ, Staff
16 Counsel, CALRECYCLE, acting in her official capacity.

17 2. CALRECYCLE has authority to inspect, permit, regulate and conduct
18 enforcement actions against Waste Tire Haulers and Waste Tire Facilities within the
19 State of California under PRC section 42800, et seq., and attendant regulations
20 contained in Title 14 of the California Code of Regulations (CCR).

21 3. PRC section 42834 states that on and after July 1, 1994, it is unlawful to
22 direct or transport waste tires to a minor waste tire facility or to accept waste tires at a
23 minor waste tire facility unless the operator has obtained a minor waste tire facility
24 permit.

25 4. Title 14 CCR section 17350 et seq. requires operators of permitted or
26 unpermitted waste tire facilities to comply with storage and safety requirements,
27 including, but not limited to, requirements regarding fire standards, site security, and
28 vector control.

1 5. A "Minor Waste Tire Facility" is defined in PRC section 42808(c) as "a
2 waste tire facility where, at any time, 500 or more, but less than 5,000, waste tires are or
3 will be stored, stockpiled, accumulated, or discarded."

4 6. Pursuant to PRC section 42804, "Operator" means the person responsible
5 for the overall operation of a waste tire facility.

6 7. Pursuant to Title 14, CCR section 17225.755, "Operator" is the person
7 legally responsible for the operation of a waste tire facility or the owner if there is no
8 operator."

9 8. An "Owner" is defined in PRC section 42805 and Title 14, CCR section
10 17225.760, as the person who owns, in whole or in part, a waste tire facility, the waste
11 tires located at a facility, or the land on which a waste tire facility is located.

12 9. RESPONDENT D & M TIRE SOLUTIONS, LLC is an unpermitted waste
13 tire facility located at 740 East 111th Place, Los Angeles, California 90059.

14 10. RESPONDENT WLCAC is the "Owner" of the land on which the
15 unpermitted waste tire facility, D & M TIRE SOLUTIONS, LLC., 740 East 111th Place,
16 Los Angeles, California 90059 (hereafter, referred to as "the site") is located.

17 11. At no time between August 18, 2011 and January 17, 2012, was the site a
18 permitted minor waste tire facility.

19 12. On August 18, 2011, City of Los Angeles Waste Tire Grantee Inspector,
20 Jerry Weir, conducted an inspection of the site and observed approximately 4,000
21 waste tires on site, as documented in Inspection Report # I1-1163439. A Notice of
22 Violation (NOV) was issued to RESPONDENT D & M TIRE SOLUTIONS, LLC. with a
23 30-day deadline period to comply.

24 13. On October 11, 2011, a re-inspection was conducted by Inspector Weir
25 and City of Los Angeles Waste Tire Grantee Inspector, D. Pusateri. As documented in
26 Inspection Report # I1-1163423, Inspectors Weir and D. Pusateri observed
27 approximately 4,360 waste tires on the site. A NOV was issued to RESPONDENT D &
28 M TIRE SOLUTIONS, LLC and the matter was referred to CALRECYCLE enforcement.

1 copy of its Manifest Forms.

2 19. CALRECYCLE's authority to assess administrative penalties against
3 RESPONDENTS D & M TIRE SOLUTIONS and WLCAC for intentional and negligent
4 violations is set forth in PRC sections 42850.1(a) and (b).

5 20. An administrative penalty of \$16,750.00 for waste tire storage violations is
6 reasonable pursuant to the enforcement criteria and penalty tables set forth in Title 14
7 CCR sections 18429 and 18464.

8 ORDER

9 CALRECYCLE approves of, and adopts the terms of the Stipulation, and the
10 following Order is hereby made:

11 1. WLCAC shall clean up, remove, abate the effects thereof of all waste tires
12 on WLCAC's property (the site) located at 740 East 111th Place, Los Angeles,
13 California 90059 within three (3) calendar months following the date of the
14 Administrative Decision that will accompany the Stipulation pursuant to the following
15 terms and conditions:

- 16 a. WLCAC shall use a registered waste and used tire hauler to remove
17 the tires from the site and must comply with all California waste tire
18 storage laws and attendant regulations.
- 19 b. WLCAC shall provide CALRECYCLE with Manifest Forms, also
20 referred to as Comprehensive Trip Log ("CTL") receipts for the
21 transport of tires from the site, for delivery to a destination point in
22 California, within 15 days of transport. If the tires are delivered outside
23 of the California, a CTL shall still be required showing delivery of tires
24 to the destination point and must be submitted to CalRecycle within 15
25 days of delivery.
- 26 c. WLCAC shall provide CALRECYCLE with a proposed plan for removal
27 of the tires prior to removing the tires; CALRECYCLE must concur with
28 the plan. CalRecycle shall respond to the plan within 15 days.

- 1 d. WLCAC's failure to comply with any of the hauling, plan approval, or
2 CTL remittal terms contained in the Stipulation shall constitute a partial
3 default of the Stipulation.
- 4 e. WLCAC shall not store any additional tires at the site and shall not
5 ever deliver, transport, store, stockpile, or accumulate any additional
6 tires at the site.
- 7 f. WLCAC shall grant CALRECYCLE staff access to the site for monthly
8 inspections during the three-month clean-up period and at the end of
9 the three-month clean-up period to verify compliance with the terms of
10 the Stipulation. The cost of these inspections shall be borne by
11 WLCAC and shall include, time preparing for inspection, travel to the
12 site, and time spent preparing and writing inspection report.
- 13 g. Failure to reimburse CALRECYCLE for an inspection pursuant to the
14 Stipulation within 30 days of an invoice shall constitute a partial default
15 by WLCAC of this Stipulation.
- 16 h. WLCAC shall provide CALRECYCLE with all contact information in its
17 possession regarding RESPONDENT D&M TIRE SOLUTIONS, LLC.
- 18 i. If CALRECYCLE determines that all tires are cleaned up from the site
19 within the three-month clean-up period, the waste tire storage
20 administrative penalties of \$16,750.00 shall be withdrawn against
21 WLCAC.

22 **Additional terms:**

- 23 j. If CALRECYCLE determines that tires remain at the site after the
24 three-month clean-up period:
- 25 i. WLCAC shall grant CALRECYCLE staff access to the site to
26 clean up the tires and remove any additional environmental
27 threats created by the storage of these tires;
- 28

1 ii. WLCAC shall fully reimburse CALRECYCLE for the cost
2 expended to clean up these tires; and

3 iii. WLCAC shall immediately remit the full waste tire storage
4 administrative penalty of \$16,750.00 (less any partial
5 penalties already paid) to CALRECYCLE.

6 k. WLCAC shall be given appropriate consideration should acts of God,
7 regulatory delays, or other impediments beyond WLCAC's control
8 contribute to the tires remaining on the site after the three-month
9 clean-up period.

10 l. The Parties shall exhaust all other available remedies and legal
11 options before WLCAC is required to comply with these additional
12 terms.

13 2. **Default:** WLCAC is in default of the Stipulation if WLCAC fails to comply
14 with any of the terms and conditions set forth in the Stipulation, unless otherwise
15 specified. In the event that CALRECYCLE discovers a default of the Stipulation,
16 CALRECYCLE shall notify WLCAC by issuing a Notice of Default. WLCAC shall have
17 thirty (30) days from the date of issuance of the Notice of Default to respond to
18 CALRECYCLE's allegations and provide evidence that a default did not in fact occur.
19 CALRECYCLE will review all counterarguments and evidence provided by WLCAC and
20 shall make a determination as to whether a default occurred, or shall issue a revised
21 Administrative Decision based on the default.

22 3. **Partial Default:** WLCAC is in partial default of the Stipulation if WLCAC
23 fails to comply with the specified terms and conditions set forth in the Stipulation. In the
24 event of a partial default, CALRECYCLE shall state the amount of penalties due, in
25 accordance with the penalty amounts prescribed in PRC sections 42850, 42850.1,
26 42962 and Title 14, CCR sections 18429 and 18464, when it sends its Notice of Default.
27 WLCAC shall have thirty (30) days from the date of issuance of the Notice of Default to
28 respond to CALRECYCLE's allegations and provide evidence that a partial default did

1 not in fact occur. CALRECYCLE shall review all counterarguments and evidence
2 provided by WLCAC and shall make a determination as to whether a partial default
3 occurred, or shall issue an invoice ordering WLCAC to pay the specific penalty
4 prescribed in the Notice of Default within 30 days.

5 4. **Additional Inspections:** After compliance has again been regained at
6 the site and for a period of up to five (5) years following the issuance of an
7 Administrative Decision pursuant to the Stipulation, CALRECYCLE or an authorized
8 representative of CALRECYCLE, shall inspect the site twice a year during the five-year
9 abeyance period. If CALRECYCLE determines that WLCAC has violated any waste tire
10 storage laws, or waste tire hauler laws by creating a new waste tire facility at the site,
11 CALRECYCLE shall be required to perform inspections at the location of the violation
12 (the site) that are in addition to those inspections otherwise required by statute or
13 regulation, at a frequency determined by CALRECYCLE and until WLCAC comes into
14 compliance. WLCAC shall grant access to the site for these additional inspections.
15 Failure to grant access to CALRECYCLE inspectors or authorized representatives of
16 CALRECYCLE shall be deemed a default of the Stipulation.

17
18 This Administrative Decision shall become effective as of the date signed below:

19
20 Dated this 31 day of July, 2013.

21 
22 _____
23 MARK DE BIE
24 Deputy Director
25 DEPARTMENT OF RESOURCES,
26 RECYCLING AND RECOVERY
27 (CALRECYCLE)
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