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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

10 In the matter of:

11 DORJ ARIUNBAATAR DBA
12 MGL EXPRESS TRANSPORTATION

13 TPID NO: 1648287-01

14 RESPONDENT.

STATEMENT OF ISSUES FOR THE
REVOCAION OF WASTE TIRE HAULER
REGISTRATION

PUBLIC RESOURCES CODE SECTION
42960 and GOVERNMENT CODE
SECTION 11503

AGENCY NO. 2012-000008-REV

17
18 INTRODUCTION

19 The California Department of Resources Recycling and Recovery is seeking to
20 revoke the Waste Tire Hauler Registration (registration) issued for the 2012 calendar
21 year to DORJ ARIUNBAATAR DBA MGL EXPRESS TRANSPORTATION,
22 (RESPONDENT) for three (3) years in accordance with Public Resources Code (PRC)
23 section 42960.

24 The California Integrated Waste Management Board (CIWMB) is now the
25 California Department of Resources Recycling and Recovery (CALRECYCLE).
26 CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to PRC
27 section 40401(a)(1). This revocation of registration is so issued based on the following
28 facts alleged on information and belief.

1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has authority to regulate and conduct enforcement
3 actions regarding Waste Tire Haulers within the State of California pursuant to PRC
4 section 42950 et seq., and attendant regulations contained in Title 14 of the California
5 Code of Regulations (CCR).

6 2. PRC section 42960 (a)(1) authorizes CALRECYCLE to suspend, revoke,
7 or deny a waste and used tire hauler registration for a period of three years if the
8 holder of the registration commits more than three violations of any requirements of
9 Chapter 16 or Chapter 19 of Part 3 of Division 30 of the PRC.

10 3. PRC section 42951 (b) prohibits registered waste tire haulers (haulers)
11 from transporting waste or used tires to a facility that is not "permitted, excluded,
12 exempted, or otherwise authorized by [CALRECYCLE], by statute, or by regulation, to
13 accept waste and used tires. . . ."

14 4. A minor Waste Tire Facility (WTF) is defined in PRC section 42808(c) as
15 "a [WTF] where, at any time, 500 or more, but less than 5,000, waste tires are or will be
16 stored, stockpiled, accumulated, or discarded."

17 5. A major WTF is defined in PRC section 42808(b) as "a [WTF] where, at
18 any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or
19 discarded."

20 6. PRC section 42823 and 14 CCR section 18420 both require operators
21 and owners of major WTFs to obtain a major WTF permit prior to the operation of a
22 major WTF.

23 7. PRC section 42823 prohibits a person from establishing a new major
24 WTF without first obtaining a major WTF permit from CALRECYCLE.

25 8. PRC section 42824 makes it "unlawful to direct or transport waste tires to
26 a major [WTF] or to accept waste tires at a major [WTF] unless the operator has
27 obtained a major [WTF] permit" from CALRECYCLE.

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1 9. PRC section 42834 makes it “unlawful to direct or transport waste tires to
2 a minor [WTF] or to accept waste tires at a minor [WTF] unless the operator has
3 obtained a minor [WTF] permit” from CALRECYCLE.

4 10. PRC section 42961.5 requires the submission of manifests, also known
5 as Comprehensive Trip Log (CTL) forms, to CALRECYCLE, documenting the pickups
6 and deliveries of all waste and used tires, including to or from the hauler’s own site.

7 11. 14 CCR section 18459 sets forth requirements for properly completing
8 CTL forms, which are incorporated by reference into the CCR, including providing the
9 TPID number for the location of delivery or pick-up of each load of waste tires as well
10 as the TPID number issued to the waste tire hauler by CALRECYCLE.

11 12. Pursuant to 14 CCR section 18456.2(b), upon approval of a waste and
12 used tire hauler application, CALRECYCLE shall “issue a [separate] waste and used
13 tire hauler registration card and decal for each vehicle identified in the application.” 14
14 CCR section 18456.2(c) states that “[r]egistration cards and decals are not transferable
15 from vehicle to vehicle. They shall be present in the vehicle to which they were
16 issued.” 14 CCR section 18454(f) states, “The registration card and/or decal issued to
17 a specific vehicle are [sic] not transferable from vehicle to vehicle. They shall be
18 present in the vehicle to which they are issued.”

19 13. Pursuant to 14 CCR section 18459.1(a), every waste tire generator is
20 required to obtain a Trip Program Identification (TPID) number for each location from
21 which used or waste tires are generated and transported. Additionally, pursuant to 14
22 CCR section 18459.1(c) “[e]very waste tire hauler shall be assigned a CALRECYCLE
23 issued [TPID] Number . . . at the time of registration.”

24 14. On February 15, 2011, CALRECYCLE received a Waste Tire Hauler
25 Registration Application (Application) from RESPONDENT. Both the business and
26 mailing address were provided as 57 Tahoe Court #4, Walnut Creek, CA 94596;
27 RESPONDENT DORJ ARIUNBAATAR signed the Application as “CEO.”
28 CALRECYCLE issued TPID Number 1648287 to RESPONDENT and mailed

1 RESPONDENT a registration packet.

2 15. During an inspection of Oakland Scrap, LLC, located at 851 81st Avenue,
3 Suite CA, Oakland California, (Oakland Scrap) on June 24, 2011, and documented in
4 Waste Tire Survey and Inspection Report (Inspection Report) number I1-1167787, by
5 Alameda County Environmental Health inspectors Steven Plunkett and Paresh Khatri,
6 accompanied by CALRECYCLE staff Barbara Strough, Mary LeClaire, and Katharine
7 Bruner-Benson RESPONDENT DORJ ARIUNBAATAR identified himself as a partner
8 in Oakland Scrap's LLC. During that same inspection, Ms. Bruner-Benson instructed
9 RESPONDENT on the proper manner in which to complete CTL forms, and also
10 advised RESPONDENT to use TPID number 1648287, the TPID number issued to
11 RESPONDENT by CALRECYCLE as a waste tire hauler, on CTL forms documenting
12 loads of waste or used tires transported by RESPONDENT. The inspectors also
13 determined that RESPONDENT stored the vehicles listed in his Application at Oakland
14 Scrap's site.

15 16. During the same inspection of Oakland Scrap described in paragraph 15
16 above, Ms. Bruner-Benson observed a waste tire hauler registration decal (decal)
17 issued by CALRECYCLE to RESPONDENT placed on a truck to which it was not
18 issued, in violation of 14 CCR sections 18456.2(b) and (c). Ms. Bruner-Benson
19 observed a truck in the parking lot of Oakland Scrap with decal number 11-0665 placed
20 in the windshield; the truck had no license plate, but showed VIN number
21 1GDJG31U841912745. Ms. Bruner-Benson determined that decal number 11-0665
22 had been issued to RESPONDENT for specific use on a vehicle with license plate
23 number 9E04401 and VIN number 1FUJA6AV05DN71513. Ms. Bruner-Benson further
24 determined that the truck possessing VIN number 1GDJG31U841912745 was included
25 in a separate Waste and Used Tire Hauler Application submitted for Oakland Scrap,
26 LLC, to a vehicle with license plate number 8Z98228.

27 17. During a review of CTL forms, staff observed at least six CTL forms
28 numbered 4385429-C, 4385429-B, 4385429-A, 4385437-C, 4385437-B, 4385437-A,

1 in which RESPONDENT provided its TPID number as 1601438 and not the TPID
2 number issued by CALRECYCLE, in violation of PRC section 42961.5 and 14 CCR
3 section 18459.

4 18. On July 28, 2011, CALRECYCLE issued correspondence regarding
5 "Errors/Omissions Noted On The Comprehensive Trip Log Forms" to RESPONDENT.
6 Said correspondence again advised RESPONDENT to use TPID number 1648287 as
7 its waste tire hauler identifier when completing CTL forms. The correspondence further
8 requested additional information regarding the location at which RESPONDENT stored
9 the vehicles listed in its Application.

10 19. During a subsequent review of CTL forms submitted by RESPONDENT,
11 CALRECYCLE staff observed three CTL forms number 4214166-A, 4214155-B, and
12 4214147-A, in which RESPONDENT again used the incorrect TPID number, in
13 violation of 14 CCR section 18459.

14 20. During an inspection of Oakland Scrap on September 28, 2011, and
15 documented in Inspection Report number I1-1129286, RESPONDENT DORJ
16 ARIUNBAATAR again presented himself as a business representative for Oakland
17 Scrap. Inspectors Steven Plunkett and Paresh Khatri observed 5,197 tires on site, in
18 violation of PRC sections 42823 and 42824, because at no time has Oakland Scrap
19 obtained a major WTF permit from CALRECYCLE.

20 21. During a review of CTL forms, CALRECYCLE staff observed that on at
21 least two separate occasions documented in CTL forms numbered 4191664-C and
22 4446721-A, RESPONDENT delivered more than 500 waste tires to the unpermitted
23 Oakland Scrap site, thereby creating either a minor or major WTF, in violation of PRC
24 section 42834 and 14 CCR section 18420. In doing so, RESPONDENT also delivered
25 waste tires to an unauthorized location in violation of PRC section 42951(b).

26 22. During a review of CTL forms, CALRECYCLE staff observed that on at
27 least two separate occasions documented in CTL forms numbered 4350123-B and
28 4403217-C, RESPONDENT delivered more than 500 waste tires to Sac Scrap, LLC.

1 At no time has Sac Scrap, LLC, been issued a minor or a major WTF permit, and
2 therefore, Sac Scrap, LLC, must maintain a waste tire count onsite of 499 or less. By
3 delivering 500 or more waste tires in one load, RESPONDENT created a minor or
4 major WTF at the unpermitted site in violation PRC section 42834 and 14 CCR section
5 18420. RESPONDENT also delivered waste tires to an unauthorized location in
6 violation of PRC section 42951(b).

7 23. During a review of CTL forms completed and submitted to CALRECYCLE
8 for RESPONDENT, CALRECYCLE staff observed that 90 out of the 191 CTL forms
9 submitted between November 1, 2011 and January 1, 2012, 90 contained errors, in
10 violation of PRC section 42961.5 and 14 CCR section 18459, which is an error rate of
11 47%.

12 ALLEGATIONS OF SPECIFIC VIOLATIONS

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15 24. On at least four separate occasions RESPONDENT violated PRC
16 section 42951(b) for failing to transport used or waste tires to a facility that is permitted,
17 excluded, exempted or otherwise authorized by CALRECYCLE, by statute or
18 regulation to accept used or waste tires, or to a facility that lawfully accepts used or
19 waste tires for reuse or disposal.

20 25. On at least 99 separate occasions RESPONDENT violated PRC
21 section 42961.5 and 14 CCR section 18459 for failing to properly complete and submit
22 the CTL form or for including and submitting incomplete or false information on the CTL
23 form.

24 26. On at least one occasion RESPONDENT violated PRC section 18454(f)
25 by transferring the decal issued to RESPONDENT for a specific vehicle listed in
26 RESPONDENT's Application to a separate vehicle owned and operated by someone
27 other than RESPONDENT.

1 Pursuant to the above referenced Public Resources Code and Government
2 Code sections, discovery requests by any party must be made within thirty days after
3 the service of this STATEMENT OF ISSUES FOR THE REVOCATION OF WASTE
4 TIRE HAULER REGISTRATION.

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7 Dated this 9 day of August, 2012.

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HEATHER L. HUNT
Staff Counsel III

1 STATE OF CALIFORNIA

2 CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

3 In the matter of:
4 DORJ ARIUNBAATAR DBA
5 MGL EXPRESS TRANSPORTATION
6 TPID NO: 1648287-01
7
8 RESPONDENTS

REQUEST FOR A HEARING
AGENCY NO: 2012-000008-REV

9
10 I, _____, in the above-entitled proceeding, acknowledge receipt of a
11 copy of the STATEMENT OF ISSUES FOR THE REVOCATION OF WASTE TIRE HAULER
12 REGISTRATION.

13 I hereby request a hearing to permit me to present my defense to the charges
14 contained in said STATEMENT OF ISSUES FOR THE REVOCATION OF WASTE TIRE
15 HAULER REGISTRATION.

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

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

20 Address: _____ Telephone: _____
21 City: _____ State: _____ Zip Code: _____

22 Signature: _____

23 Date: _____

24
25 Please send to:

26 CalRecycle Legal Office
27 Attention: Gloria Bell
28 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

You 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 REVOCATION OF WASTE TIRE HAULER REGISTRATION. **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 REVOCATION OF WASTE TIRE HAULER REGISTRATION.

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 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, 1515 Clay Street, Suite 206, Oakland, California 94612 (510) 622-2722. That agency has control of continuances. Requests without good cause will be denied.