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STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of: SAC SCRAP, LLC TPID NO. 1671894-01 RESPONDENT.	ADMINISTRATIVE DECISION FOR THE DENIAL OF THE MINOR WASTE TIRE FACILITY PERMIT OAH CASE NO. 2012060795 AGENCY NO: 2011-000107-DEN

The California Department of Resources Recycling and Recovery (CALRECYCLE) served the Statement of Issues for the Denial of the Minor Waste Tire Facility Permit (Statement of Issues) on RESPONDENT on May 17, 2012. RESPONDENT requested a hearing on June 1, 2012. A hearing was scheduled for January 28 and 29, 2013, in Sacramento, California. On January 15, 2013, JULIE HE, owner and operator of SAC SCRAP, LLC (RESPONDENT), and her attorney, John L. Cammack, signed the Stipulation to Vacate Assigned Hearing Date, withdrawing RESPONDENT's request for a hearing in this matter.

The matter shall be determined as a default pursuant to Title 1 of the California Code of Regulations (CCR) section 1014 and Government Code section 11520. CALRECYCLE takes action against RESPONDENT based upon evidence and affidavits that may be used without any notice to RESPONDENT.

FACTUAL FINDINGS

1. The Statement of Issues was executed by HEATHER L. HUNT, Staff Counsel III, CALRECYCLE, acting in her official capacity.

2. On October 24, 2011, RESPONDENT filed Waste Tire Facility Permit Application number 1671894 (Application) requesting a permit to operate a minor waste tire facility (WTF) on a site located at 1679 Enterprise Blvd., Suite 40, West Sacramento, California 95691 (the site). On the Application, RESPONDENT listed Julie He as the facility operator. The Application requested CALRECYCLE to authorize RESPONDENT to store up to 4,999 waste tires on the site.

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

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

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

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

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

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

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

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

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

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

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

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

15. During an inspection of Oakland Scrap on September 28, 2011, and documented in Inspection Report number I1-1129286, Inspector Plunkett observed 5,197 waste tires onsite,

in violation of PRC sections 42824 and 42823.

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

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

LEGAL CONCLUSIONS

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

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

20. On at least four 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.

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

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

ORDER

Good cause appearing, Complainant's motion to take action in accordance with the provisions of Government Code Section 11520, subdivision (a) is granted.

THE FOLLOWING ORDER is hereby made:

The Minor Waste Tire Facility Permit applied for by SAC SCRAP, LLC (RESPONDENT) as documented in the Waste Tire Facility Application number 1671894 is denied for a period of three (3) years in accordance with PRC section 42843.

This DECISION shall become effective as of the date signed below:

Dated this 23 day of January, 2013.

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