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

11 In the matter of:)
12 ANGELICA OGANYAN AND JACK) ADMINISTRATIVE COMPLAINT
13 OGANYAN DBA JACK'S TIRE) FOR WASTE TIRE HAULER
14 RECYCLING) ADMINISTRATIVE PENALTIES
15 TPID NO: 1641837-01) PUBLIC RESOURCES CODE
16) SECTION 42950, ET SEQ.
17) AGENCY NO: 2013-011155-ADC
RESPONDENTS)

18 **INTRODUCTION**

19 This Administrative Complaint For Waste Tire Hauler Administrative Penalties is issued
20 by the California Department of Resources Recycling and Recovery (CALRECYCLE) to
21 Angelica Oganyan and Jack Oganyan dba Jack's Tire Recycling (RESPONDENTS) seeking
22 \$146,000.00.

23 The California Integrated Waste Management Board (CIWMB or also referred to as, the
24 "Board") is now the California Department of Resources Recycling and Recovery
25 (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010,
26 pursuant to Public Resources Code (PRC) section 40401(a)(1). CALRECYCLE is authorized
27 to issue an administrative accusation to a person on whom civil liability may be imposed. This
28 Administrative Complaint is so issued based on the following facts.

1 **STATEMENT OF FACTS**

2 1. CALRECYCLE has authority to regulate and conduct enforcement actions
3 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California
4 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
5 14 of the California Code of Regulations (CCR).

6 2. PRC section 42808 defines a WTF as a "location, other than a solid waste facility
7 . . . where, at any time, waste tires are stored, stockpiled, accumulated, or discarded."

8 3. PRC section 42808(b) defines a major WTF as being a WTF where, at any time,
9 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded.

10 4. PRC section 42824 makes it unlawful to direct or transport waste tires to a major
11 WTF or to accept waste tires at a major WTF unless the operator has first obtained a major
12 WTF permit.

13 5. PRC section 42951(b) requires a registered waste and used tire hauler to
14 transport waste or used tires only to a facility that is permitted, excluded, exempted, or
15 otherwise authorized by CALRECYCLE, by statute, or by regulation, to accept waste and used
16 tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

17 6. PRC section 42953 requires any person who gives, contracts, or arranges with
18 another person to transport waste or used tires to utilize only a person holding a valid waste
19 and used tire hauler registration, unless the hauler is exempt as specified in Section 42954.

20 7. PRC section 42961.5(c)(2) requires any waste and used tire hauler hauling
21 waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof,
22 shall complete the California Uniform Waste and Used Tire Manifest as required by the board.
23 The waste and used tire hauler shall provide the manifest to the waste or used tire facility
24 operator who receives the waste or used tires for handling, altering, storage, disposal, or any
25 combination thereof. Each waste and used tire hauler shall submit to CALRECYCLE, on a
26 quarterly schedule, a legible copy of each manifest.

27 8. RESPONDENT has been a registered waste and used tire hauler since August
28 2, 2002.

1 9. RESPONDENT was provided instruction regarding the proper completion,
2 retention, and delivery of California Uniform Waste and Used Tire Manifests, also known as
3 Comprehensive Trip Log (CTL) forms or "manifest forms," at the time of RESPONDENT's
4 initial hauler registration and annually during the hauler registration renewal process.

5 10. At the time of RESPONDENT's initial registration and each subsequent year that
6 RESPONDENT applied for its hauler registration, CALRECYCLE sent RESPONDENT sent a
7 hauler package containing: (1) instructions on transporting waste/used tires; (2) a complete list
8 of hauler and manifesting regulations (Title 14, California Code of Regulations, Chapter 6); and
9 (3) a training compact disc (CD) on the proper storage and transportation of waste/used tires.
10 RESPONDENT was also sent a (CTL) Guidance Manual, explaining in detail how to properly
11 complete the CTL form, including the requirement to manifest (document on the CTL form) all
12 waste and used tire pickups and deliveries. In addition, on or about November 18, 2011,
13 CALRECYCLE mailed out a Hauler Alert to RESPONDENT informing RESPONDENT of the
14 zero tolerance policy applicable to transporting waste tires to unauthorized locations.

15 11. During an inspection of 12087 Lopez Canyon Road, San Fernando, California,
16 (the site) on April 30, 2013, and documented in Waste Tire Survey and Inspection Report
17 (Inspection Report) number I1-1161382, Inspector Ziba Atai from the Los Angeles County
18 Department of Public Health observed at least 77,000 baled waste tires During her inspection,
19 Inspector Atai discovered the waste tire bales had been transported to this location by
20 RESPONDENT. Inspector Atai issued RESONDENT, a Notice of Violation (NOV) for
21 operating a major waste tire facility without a waste tire facility permit and for not complying
22 with the manifesting requirements. This site had no Tire Program Identification number (TPID)
23 issued by CALRECYCLE until the date of this inspection showing that RESPONDENT was
24 attempting to keep this site unknown to CALRECYCLE and the TEA inspection staff.

25 12. On June 19, 2013, Inspector Atai conducted a re-inspection of the Lopez Canyon
26 Road site to determine if the operator had complied with the NOV (see Attachment B,
27 Inspection Report #I1-1179079 and photos). During the re-inspection it was determined by the
28 inspector that all the baled waste tires had been removed from the site. RESPONDENT

1 provided Inspector Atai with 64 invoices dated between May 7, 2013 and June 17, 2013,
 2 showing the pickup of containers carrying the baled waste tires that were transported to the
 3 Port of Long Beach by Ultimate Express Transportation Corporation located at 13212 South
 4 Paramount Boulevard, South Gate, CA. Ultimate Express Transportation Corporation is not a
 5 CALRECYCLE registered waste tire hauler or exempt pursuant to PRC section 42954(a)(6)
 6 (see Attachment C, Hauler Observation Report w/ invoices dated June 19, 2013, complaint
 7 number 2013-13352). Listed in the table below are the invoices showing the removal of the
 8 baled waste tires shipped to the Port of Long Beach.

Date	Violation	Tire Transporter	Cargo/Seal Number
May 7, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665257
May 7, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665259
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665256
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665258
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665281
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665279
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665284
May 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665296
May 9, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665214
May 9, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665219
May 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665238
May 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665237
May 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665218
May 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665216
May 15, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665291
May 15, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665249
May 16, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665222
May 16, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665247

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May 16, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665242
May 20, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665227
May 20, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665246
May 20, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665207
May 21, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665217
May 22, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665215
May 22, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665205
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665208
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665253
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665276
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665248
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665277
May 23, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665274
May 24, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665221
May 24, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665283
May 28, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665245
June 5, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665270
June 5, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665288
June 6, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174871
June 6, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665261
June 6, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665271
June 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665202
June 8, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665265
June 10, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174873
June 10, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174874
June 10, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174875
June 11, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174877
June 11, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174876

	Hauler		
June 12, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174880
June 12, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174881
June 12, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174882
June 13, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174883
June 13, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174884
June 13, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174885
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	UL-2174886
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665268
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665254
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666905
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666906
June 14, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1665209
June 17, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666908
June 17, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666909
June 17, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666910
June 17, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666911
June 17, 2013	Contracting with an unregistered Waste Tire Hauler	Ultimate Express Trans.	1666912

13. A review of CALRECYCLE's Waste Tire Management System reveals no manifest records for this site. RESPONDENT has been a registered waste tire hauler since August 2, 2002 (see Attachment D, Waste Tire Hauler 2013 Registration Application and current Waste Tire Surety Bond) and should be familiar with Waste Tire Hauler Registration and Manifesting Regulations.

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1 **ALLEGATIONS OF SPECIFIC VIOLATIONS**

2 14. CALRECYCLE is requesting the sum of \$146,000.00 in waste tire hauler
3 administrative penalties, pursuant to PRC section 42962(c), based on the above-mentioned
4 facts and for the following violations as more specifically set forth in the foregoing paragraphs:

- 5 a. RESPONDENT violated PRC section 42951(b) and PRC section
6 42961.5(c)(2) by transporting at least 24 loads of baled waste tires to an
7 unpermitted site and failing to manifest those loads on Comprehensive
8 Trip Log forms.
- 9 b. RESPONDENT violated PRC section 42953 from May 7, 2013 to June 17,
10 2013, by either giving, contracting or arranging for the transportation of 62
11 loads of 10 or more waste/used tires with Ultimate Express Transportation
12 Corporation not holding a valid waste tire hauler registration from
13 CALRECYCLE or exemption pursuant to PRC section 42954(a)(6).

14
15 **PENALTIES**

16 15. CALRECYCLE's authority to assess administrative penalties against
17 RESPONDENT as a waste and used tire hauler is set forth in PRC section 42962(c) and Title
18 14 CCR section 18463. Pursuant to PRC section 42962(c):

19 In addition to the civil penalty that may be imposed pursuant to subdivision
20 (a), the board [CALRECYCLE] may impose civil penalties administratively
21 in an amount not to exceed five thousand dollars (\$5,000) for each violation
22 of a separate provision or for continuing violations for each day that
23 violation continues, on any person who intentionally or negligently violates
24 any permit, rule, regulation, standard, or requirement issued adopted
25 pursuant to this chapter. . .

26 Title 14 CCR Section 18463, provides in relevant part:

27 Any waste tire generator, end-use facility, or waste tire hauler, or any party
28 or person who commits any of the following acts shall be liable for a civil
penalty:

- 1 (a) Intentionally, or negligently violates any permit, rule, regulation, standard, or
2 requirement pursuant to Chapter 19 of the Public Resources Code relating to the
3 generation, transportation or disposal of used or waste tires.
- 4 (b) The aiding or abetting, or allowing of any violation, or noncompliance with any
5 permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the
6 Public Resources Code relating to the generation, transportation or disposals of
7 used or waste tires.
- 8 (c) Any violation of, or noncompliance with any order issued by the Department
9 [CALRECYCLE] or by a hearing officer or a court relating to the generation,
10 transportation or disposal of used or waste tires.
- 11 (d) Any false statement, misrepresentation, or omission of a significant fact or other
12 required information in the application for a waste tire hauler registration,
13 Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution
14 Form, or in information regarding these matters subsequently reported to the
15 Department [CALRECYCLE].

16 Furthermore, Title 14 CCR section 18464 allows CALRECYCLE to impose
17 administrative penalties in accordance with the penalty table therein.

18 16. As required by Title 14 CCR section 18465, in determining an appropriate
19 administrative penalty for RESPONDENT, CALRECYCLE has taken into consideration the
20 following factors:

- 21 (1) The nature, circumstances, extent, and gravity of the violation.
- 22 (2) Evidence that the violation was willful or negligent.
- 23 (3) The good or bad faith exhibited by the party.
- 24 (4) History of violation of the same or similar nature.
- 25 (5) The extent to which the party has cooperated with the Board [CALRECYCLE]
26 in remediating the violation.
- 27 (6) The extent that the party has mitigated or attempted to mitigate any damage
28 or injury caused by his or her violation.
- (7) Evidence of any financial gain resulting from the violation.
- (8) Such other matters as justice may require.

STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of:

REQUEST FOR A HEARING/NOTICE OF DEFENSE

AGENCY NO: _____ - _____ -ADC

TPID NO: _____

RESPONDENTS.

I, _____, in the above-entitled proceeding, acknowledge receipt of a copy of the _____
(Fill in full title of Statement of Issues or Administrative Complaint [Accusation].)

I hereby:

() Request a hearing.

The basis for my request is the following:

Further, I hereby:

() Object to the Accusation for failure to state acts or omissions upon which the agency may proceed.

() Object to the form of the Accusation in that the transaction cannot be identified or a defense prepared.

() Present new matter by way of defense.

- 1 () Admit the Accusation in whole or in part.
2 () Object to the Accusation on the basis that compliance with the requirements of a
3 regulation would result in a material violation of a regulation enacted by another
4 department affecting substantive rights.

5 All correspondence concerning this proceeding should be sent to Respondent at the
6 following address:

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

9 Address: _____

10 City: _____

State: _____

Zip Code: _____

11 Telephone: _____

Email: _____

12 I hereby agree to accept service of all correspondence by email.

13 Signature: _____

14 Date: _____

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16
17 Please send to:

18 CalRecycle Legal Office
19 Attention: Gloria Bell
20 P.O. Box 4025, MS 24-B
21 Sacramento, CA 95812-4125
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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 that you are entitled to request a hearing to refute the allegations against you contained in the ADMINISTRATIVE COMPLAINT FOR WASTE TIRE HAULER ADMINISTRATIVE PENALTIES (Administrative Complaint). The enclosed REQUEST FOR HEARING/NOTICE OF DEFENSE form (Notice of Defense), when signed by or on behalf of the Respondent and returned to the Department of Resources Recycling and Recovery (CalRecycle) within 15 days of receipt of the Administrative Complaint , will acknowledge service of the Administrative Complaint and constitute a notice of defense. **If you wish to have a hearing on this matter, you must complete and return the enclosed Notice of Defense to the address indicated on the form within 15 days of receipt of the Administrative Complaint. Failure to complete and return the Notice of Defense within 15 days will be deemed a waiver of your right to a hearing.**

If you request one, a hearing will be conducted before a Hearing Officer, a CalRecycle employee that does not work on or advise the tire programs, at one of our offices or other locations throughout the State, upon the charges made in the Administrative Complaint.

Please refer to the attached document entitled "Representing Yourself in a CalRecycle Tire Hearing" for further guidance on hearing procedures and basic information on representing yourself at a CalRecycle tire hearing.



1. You are entitled to review the evidence being used against you and request a list of witnesses by applying to CalRecycle's attorney.
2. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you.
3. You are entitled, upon request, to be provided with the assistance of an interpreter, if you or your witnesses 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 CalRecycle's Hearing Clerk, so appropriate arrangements can be made. Generally, the cost is paid by the party requesting an interpreter, however, the Hearing Officer may order CalRecycle to pay if you cannot.
4. You are hereby 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 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 up to three years.
5. Continuances are not favored. If you need a continuance, immediately submit a written request to Hearing Clerk- TIR, CalRecycle Legal Office, 801 K Street, MS 19-03, Sacramento, California 95814, by fax to 916-322-8768, or by e-mail to HearingClerk.TIR@CalRecycle.ca.gov. Your written request for a continuance will be forwarded to the Hearing Officer for decision. Requests without good cause will be denied.



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

LEGAL OFFICE

801 K STREET, MS 19-03, SACRAMENTO, CALIFORNIA 95814 • (916) 327-0089 • WWW.CALRECYCLE.CA.GOV

Representing Yourself in a CalRecycle Tire Hearing

CalRecycle is providing this information to help you prepare for your administrative hearing. This information is not a substitute for having an attorney. We hope this information will help you better understand the process and prepare for the hearing.

How Do I Request A Hearing?

You have received this because you have been served with either a Statement of Issues or Administrative Complaint (Accusation) issued by the Waste Permitting, Compliance, and Mitigation Division of the Department of Resources Recycling and Recovery (CalRecycle). You may request a hearing to have a Hearing Officer hear your side of the matter before your permit or registration is denied, suspended or revoked, or before penalties are assessed against you. If you do not request a hearing, a Default Decision will be issued ordering the denial, suspension, or revocation of your permit or registration or ordering you to pay the penalty amount requested in the Accusation. If you wish to request a hearing, you must complete and send the Request For Hearing / Notice Of Defense to the address designated on that form. On that form you must state the reason you are requesting a hearing. You must provide enough information for CalRecycle to understand the facts, defenses, and other issues you hope to have addressed at the hearing.

What Will My Hearing Be Like?

Your hearing will be very similar to a trial in court, with witnesses, exhibits and rules of evidence. A Hearing Officer will preside under a delegation of authority from CalRecycle's director. 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. However, an attorney may be better able to present your side.

When the hearing begins, each side may present an opening statement. This tells the Hearing Officer what that side intends to prove. Each side can then offer relevant evidence to prove its case.

Evidence can be testimony taken under oath at the hearing or it can be certain kinds of documents, such as business records. You must prove that the documents you submit are authentic. This means that you must be able to show that a document actually is what you say it is; usually this is accomplished through witness testimony.

CalRecycle usually presents its evidence first. CalRecycle's attorney will ask its witness questions (direct examination). When the attorney is finished, it will be your turn to ask questions of that witness (cross-examination). CalRecycle's attorney will have a second chance to ask questions (redirect) and then you will have a second chance (recross).

After CalRecycle has presented its witnesses, it will be your turn. You may make a statement yourself and call your witnesses. As you finish with each of your witnesses (and your testimony), the CalRecycle attorney will cross-examine. As stated before, you will have a second chance to ask questions of each witness. Even if you choose not to testify, CalRecycle's attorney may cross-examine you.

After you have presented your case, CalRecycle may call rebuttal witnesses. Rebuttal witnesses may only testify to issues you brought up in your case. If CalRecycle calls rebuttal witnesses, you may be allowed to call additional witnesses to address the issues discussed by rebuttal witnesses. Few hearings involve rebuttal witnesses.

Remember: Before the hearing closes, you must submit all the evidence you want the Hearing Officer to consider.

After all testimony has been heard, each side can make a closing argument. Usually CalRecycle goes first; you go next. The party that goes first has the opportunity to make the last comments.

Closing argument is your chance to sum up the evidence and tell the Hearing Officer why you should prevail in your case. It can address only those facts brought out in testimony of witnesses or in documents received into evidence. In some cases, the Hearing Officer may want the parties to submit written, instead of oral, argument. If so, a schedule will be set up for the written arguments.

What Do I Need To Prove?

If a license, permit or registration for which you applied is being denied, the burden is on you to prove your side. You must prove you meet the qualifications for the license, permit or registration.

If you already have a license, permit or registration against which CalRecycle is imposing discipline, CalRecycle has the burden of proof. This means that CalRecycle must establish that you violated the laws or regulations charged in the Accusation or Statement of Issues.

Even when CalRecycle has the burden of proof, you should prepare to offer evidence of your good character and conduct, mitigation, rehabilitation and evidence refuting the charges, as appropriate.

May I See CalRecycle's Evidence Against Me?

CalRecycle's evidence is also called discovery. You are entitled to request discovery of the information CalRecycle has to prove the charges made against you or enable you to mount a defense against them. A Request For Discovery form is available on CalRecycle's website, or may be obtained by contacting CalRecycle's attorney or Hearing Clerk. Simply send the completed Request for Discovery to CalRecycle's attorney if you wish to obtain a copy of the investigative files and any other documents or relevant information CalRecycle has regarding your case. You may have to pay for copies. You also have a right to receive a witness list.

Generally, you must request "discovery" within 30 days of receiving the initial Accusation or Statement of Issues, or within 15 days of any supplemental Accusations or Statements of Issues. In some cases, these times may be shorter. Be sure to read the documents you receive to verify the time you have to request discovery.

CalRecycle has the same rights to get information from you. You may also be served with, or have included in the paperwork received already, a Request For Discovery on behalf of CalRecycle. You must make copies of the requested information available to CalRecycle by the date stated in the Request for Discovery.

What Kind of Evidence Will I Need For the Hearing?

Depending on your case, you may want to bring witnesses who know about the issues involved with the charges against you. If there are documents, such as contracts, business records or checks that help prove your side, try to bring the original and three copies. You may bring photographs or other items that are relevant to your defense. Items you want to be considered must be left with the Hearing Officer. Generally, you may substitute copies of those items in place of the originals.

Documents and photographs must be authenticated. This is typically done through witness testimony, during which your witness, or yourself, if you choose to testify, will need to explain to the Hearing Officer what the document is, how the witness reliably knows what it is, and how it is relevant to your case.

How Do I Get Records From a Business?

If you are a party to a hearing, you have the right to subpoena from individuals, businesses and government agencies relevant records or other things to be produced at the hearing. CalRecycle has a subpoena form available for download on its website, and a copy may also be mailed or emailed to you upon request. You must arrange to pay any required fees and have someone else serve the subpoenas. Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer. See also California Code of Civil Procedure, sections 1985-1985.4 for other important information.

How Do I Get a Witness to Come to the Hearing?

A witness can come voluntarily to the hearing. However, a subpoena protects your right to have that person present. You may obtain the subpoena form by downloading it from CalRecycle's website, or by requesting that a copy be mailed or emailed to you. You must use the subpoena to compel the attendance of persons whose testimony is relevant to your case, unless that person agrees to appear voluntarily on your behalf. Witnesses are entitled to paid reimbursement of their time. See Government Code sections 11450.05, 11450.50, 68092.5-68093, and 68096.1-68097.10. You must arrange to pay required fees and have someone else serve the subpoenas. Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer. See also California Code of Civil Procedure, sections 1985-1985.4 for other important information.

Is It OK to Bring Letters Instead of Witnesses?

Some letters and other documents may be admitted in evidence for limited purposes, but generally it is better to bring witnesses who can help present your side of the case and answer any questions raised. The Hearing Officer will not speak with witnesses, except at the hearing itself. If you do choose to offer letters, declarations or other documents, make sure you understand what you must do to get them admitted in evidence. (For instance, see the discussion on authenticating documents above.)

Remember: This hearing is your chance to tell the Hearing Officer your side. It is important to have your witnesses present at the hearing to testify.

If I Forget Something, Can I Send It Later to the Hearing Officer?

Your chance to present evidence is at the hearing. Only in rare cases will the Hearing Officer allow you to send evidence later.

Is There a Way To Settle This Without a Hearing?

Cases often settle without going to hearing. Contact the CalRecycle attorney to see if you can work something out.

What If I Can't Be There On The Day Set?

You must show good cause to change a hearing date. If you cannot attend on the date and at the time shown, you must contact CalRecycle as soon as you know of the problem. To request a change of date, you must file a written request with the Hearing Clerk in CalRecycle's Legal Office, with a copy to CalRecycle's attorney, explaining the reasons for the change. The sooner you make your request, the more likely it will be granted.

Remember: You must file a timely Notice of Defense in order to have a hearing.

Where Will The Hearing Take Place?

Hearings are scheduled at the CalRecycle office located closest to your residence or the location at which the transactions or events providing the basis for the Accusation or Statement of Issues occurred. CalRecycle's office locations are in Sacramento, Los Angeles, Riverside and San Diego. In some circumstances, CalRecycle may conduct a hearing at a location other than a CalRecycle office. If you feel that a different location would work better for you please contact CalRecycle's Hearing Clerk as early as possible to request a location change. CalRecycle reserves the right to deny the request upon consideration of issues including, without being limited to, the ability of CalRecycle staff and the Hearing Officer to travel to the location, and any fees that may be incurred for travel plans already made by CalRecycle staff, the Hearing Officer, and CalRecycle's witnesses.

What If I Don't Attend?

If you request a hearing and do not attend the hearing, CalRecycle can still proceed with the case against you. (If you do not request a hearing, CalRecycle will issue a Default Decision against you.)

What If I Need An Interpreter?

If you or a witness need a sign or language interpreter, immediately contact the CalRecycle attorney or Hearing Clerk so that a certified interpreter can be provided. Normally, it is not sufficient to bring a friend or relative to interpret for you.

Will The Hearing Location Be Accessible To People With Disabilities?

Hearing locations are to be accessible to persons with disabilities. However, check in advance with CalRecycle's Hearing Clerk to assure accessibility. In addition, if you know persons who plan to attend have special needs that require reasonable accommodation, please contact CalRecycle's Hearing Clerk as soon as possible, so arrangements can be made.

What Is The Contact Information For CalRecycle's Hearing Clerk?

All tire hearing papers must be filed with the Hearing Clerk in CalRecycle's Legal Office at the street address, fax number or email address below.

Hearing Clerk- TIR
CalRecycle Legal Office
801 K Street, MS 19-03
Sacramento, CA 95814
916-327-0089
916-322-8768 FAX
HearingClerk.TIR@CalRecycle.ca.gov



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

LEGAL OFFICE

801 K STREET, MS 19-03, SACRAMENTO, CALIFORNIA 95814 • (916) 327-0089 • WWW.CALRECYCLE.CA.GOV

CalRecycle Tire Hearing Subpoena Information

CalRecycle Tire Hearing Subpoenas cannot be used in CalRecycle Division of Recycling hearings.

Can I subpoena witnesses to testify at the hearing?

Subpoenas may be issued to require witnesses to attend and testify at CalRecycle tire hearings. Witnesses are entitled to payment for their time and travel. Please see "I have received a subpoena to be a witness in a case. Can I be paid?" below.

I want to receive copies of records held by someone else for my administrative hearing. How do I get them?

You are entitled to request discovery of the information CalRecycle has to prove the charges made against you or enable you mount a defense against them. Please see *Representing Yourself in a CalRecycle Tire Hearing* for more information.

You may also subpoena records from individuals, businesses, and government agencies to be produced at your hearing. A subpoena duces tecum means "bring with you under penalty of law" and compels the party served to bring records that they have to the hearing and to verify that the documents or records have not been altered. That may be done by declaration or by direct testimony, as you require.

The form on the internet is not signed. Can I sign it?

Only CalRecycle Hearing Officers or attorneys licensed in California acting on behalf of a party may sign a subpoena. If you are proceeding without an attorney, contact CalRecycle's Hearing Clerk to obtain a blank subpoena form signed by a Hearing Officer.

Hearing Clerk- TIR
CalRecycle Legal Office
801 K Street, MS 19-03
Sacramento, CA 95814
916-327-0089
916-322-8768 FAX
HearingClerk.TIR@CalRecycle.ca.gov

What laws should I look at before sending a subpoena or a subpoena duces tecum?

Code of Civil Procedure sections 1985-1987

Government Code sections 11450.05-11450.50, 68092.5-68093, and 68096.1-68097.10.

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I have received a subpoena to be a witness in a case. Can I be paid?

Yes, according to Government Code Sections 11450.05 and 11450.50, you may request witness fees and mileage actually traveled both ways. You may request payment in advance of the hearing from the party at whose request the subpoena or subpoena duces tecum is issued, which appears in item 1 of the CalRecycle Tire Hearing Subpoena form. See Government Code sections 11450.05, 11450.50, 68092.5-68093, and 68096.1-68097.10.

Name: _____
Address: _____
Telephone: _____
Fax (optional): _____
Email (optional): _____

STATE OF CALIFORNIA
DEPARTMENT OF RESOURCES RECYCLING & RECOVERY

In the matter of: _____) **REQUEST FOR DISCOVERY**
_____)
_____) (Government Code Section 11507.6)
_____) **RESOURCES CODE SECTION 42960**
_____)
TPID NO: _____) **AGENCY NO: _____ - _____ - _____**
_____)
_____)

TO: The Department of Resources Recycling & Recovery ("CALRECYCLE"), under Government Code Section 11507.6, I, _____ request the following:

1. The names and addresses of all witnesses to the extent known by you, including, but not limited to, those you intend to call to testify at the hearing, and
2. An opportunity to inspect and copy all of the following matters under Government Code Section 11507.6(a)-(f) that are in your possession, custody or control:
 - (a) A statement of any person, or regarding any entity named in the initial pleading when it is claimed in the pleading that any respondent's act or omission regarding this person or entity is the basis for this administrative proceeding;
 - (b) A statement pertaining to the subject matter of the pleading made by any party to another party or person;

(c) Statements of witnesses proposed to be called to testify and of other persons having personal knowledge of the acts, omissions, or events that are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including but not limited to reports and things that you propose to offer in evidence;

(e) Any other writing or thing that is relevant and would be admissible in evidence.

(f) Investigative reports made by or on behalf of you or any other party pertaining to the subject matter of the proceedings, to the extent that these reports:

(1) Contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions, or events that are the basis for the proceedings, or

(2) Reflect matters perceived by the investigator in the course of his or her investigation, or

(3) Contain or include by attachment any statement or writing described in (a) to (e) above, or a summary thereof.

3. This request is not intended to require inspection, copying or production of any writing which is privileged from disclosure by law or protected as attorney's work product.

4. This is a continuing request for discovery of any of the above stated matters that may come into your possession at any time before the hearing.

Specifically, in response to the discovery requested above, pursuant to Government Code 11507.6, I request the following evidence relevant to this matter:

Signature: _____

Date: _____

Please send completed form to:

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