

1 ELLIOT BLOCK SBN 116999
Chief Counsel
2 HEATHER L. HUNT SBN 225861
3 MARTHA PEREZ SBN 271766
Attorneys for Complainant
4 DEPARTMENT OF RESOURCES RECYCLING & RECOVERY
1001 I Street, 24th Floor
5 P. O. Box 4025
6 Sacramento, CA 95812-4025
Telephone: (916) 341- 6068
7 Facsimile: (916) 319-7677

8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10
11 In the matter of:

12 ANGELICA OGANYAN AND JACK
13 OGANYAN DBA JACK'S TIRE
14 RECYCLING
15 TPID NO: 1641837-01

16 RESPONDENTS

)
) AMENDED ADMINISTRATIVE
) COMPLAINT FOR WASTE TIRE
) HAULER ADMINISTRATIVE PENALTIES
)
) PUBLIC RESOURCES CODE
) SECTION 42950, ET SEQ.
)
) AGENCY NO: 2013-011155-ADC

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18 **INTRODUCTION**

19 This Amended Administrative Complaint For Waste Tire Hauler Administrative Penalties
20 is issued by the California Department of Resources Recycling and Recovery (CALRECYCLE)
21 to 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 Amended 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 24, 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 28, 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
any permit, rule, regulation, standard, or requirement issued adopted
pursuant to this chapter. . .

24 Title 14 CCR Section 18463, provides in relevant part:
25

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

