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8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 In the matter of:

11 825 POST STREET ASSOCIATES, LP.,
12 PROPERTY OWNER

13
14
15 RESPONDENT.

Case No. IH13-017-TIR

NOTICE OF WITHDRAWAL AND
WITHDRAWAL OF ADMINISTRATIVE
COMPLAINT FOR WASTE TIRE
STORAGE ADMINISTRATIVE
PENALTIES

16
17 AGENCY NO. 2013-011156-ADC

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19 NOTICE IS HEREBY GIVEN that the California Department of Resources
20 Recycling and Recovery (hereafter, "CalRecycle") hereby withdraws the
21 ADMINISTRATIVE COMPLAINT FOR WASTE TIRE STORAGE ADMINISTRATIVE
22 PENALTIES, Case No. IH13-017-TIR, served on Respondent 825 Post Street
23 Associates, L.P., on September 13, 2013.

24 On September 13, 2013, an ADMINISTRATIVE COMPLAINT FOR WASTE TIRE
25 STORAGE ADMINISTRATIVE PENALTIES (hereafter, "Administrative Complaint")
26 seeking \$420,000.00 was issued against Respondent, 825 Post Street Associates. On
27 October 11, 2013, Gina Sharron, attorney for Respondent, 825 Post Street Associates,
28 filed a REQUEST FOR HEARING/NOTICE OF DEFENSE with the CalRecycle Legal

1 Office. On October 11, 2013, Ms. Sharron also filed with the CalRecycle Legal Office an
2 "OBJECTION TO INFORMAL HEARING AND REQUEST FOR FORMAL HEARING
3 (the "Objection")." At present, there has not been briefing or determination regarding
4 the Objection. An informal hearing in this matter is currently scheduled to take place on
5 February 26 and 27, 2014.

6 BACKGROUND

7 1. Global Waste Management, Inc., Tire Program Identification ("TPID")
8 Number 1613306-01, is a minor permitted waste tire facility located at 214 Shaw Road,
9 Unit 9, South San Francisco, California 94080 (hereafter, referred to as "the Site").

10 2. Daniel Akhromtsev is the "Operator" of the Site, as that term is defined in
11 Pub. Resources Code § 42804, "the person responsible for the overall operation of a
12 waste tire facility."

13 3. 825 Post Street Associates is the "Owner" of the Site, as that term is
14 defined in Pub. Resources Code § 42805, and Cal. Code Regs., tit. 14, §§ 17225.755,
15 17225.760.¹

16 4. On December 14, 2012, CalRecycle issued Global Waste Management,
17 Inc. a new waste tire facility permit for a "Minor Waste Tire Facility," authorizing a
18 maximum permitted capacity at the site of 4,999 whole waste tires or passenger tire
19 equivalents.

20 5. A "Minor Waste Tire Facility" is defined in Pub. Resources Code §
21 42808(c) as, "a waste tire facility where, at any time, 500 or more, but less than 5,000,
22 waste tires are or will be stored, stockpiled, accumulated, or discarded."

23 6. A "Major Waste Tire Facility" is defined in Pub. Resources Code §
24 42808(b) as "a waste tire facility where, at any time, 5,000 or more waste tires are or will
25 be stored, stockpiled, accumulated, or discarded."

26
27 ¹ Pursuant to Pub. Resources Code § 42805 and Cal. Code Regs., tit. 14, § 17225.760, an "Owner" is a
28 "person who owns, in whole or in part, a waste tire facility, the waste tires located at a facility, or the land
on which a waste tire facility is located." Pursuant to Cal. Code Regs., tit. 14, § 17225.755, the "Operator"
means the person legally responsible for the operation of a waste tire facility or the owner if there is no
operator."

1 7. On February 20, 2013, CalRecycle Inspectors Catherine Blair and Robert
2 Baumann conducted a routine inspection of the Site to ensure compliance with
3 applicable waste tire storage and disposal standards and the terms and conditions of
4 Global Waste Management's Minor Waste Tire Facility Permit. In Inspection Report
5 #IW-1004936, Inspectors Blair and Baumann stated that, based on a visual observation
6 and a plain view of the Site, they observed approximately 11,682 waste tires on the
7 Site, in violation of Global Waste Management's Minor Waste Tire Facility Permit.

8 8. On March 6, 2013, CalRecycle Inspectors Blair, Baumann, and Michael
9 Payan returned to the Site to conduct a routine inspection. In Inspection Report #IW-
10 1005173, the Inspectors stated that they observed approximately 17,040 waste tires
11 stored on the Site, in violation of Global Waste Management's Minor Waste Tire Facility
12 Permit.

13 9. On April 8, 2013, CalRecycle issued Cleanup and Abatement Order
14 (hereafter, "CAO") 2013-011028-CAO to Global Waste Management and to 825 Post
15 Street Associates. A certified return receipt indicated Global Waste Management was
16 served with the CAO on April 10, 2013. A certified return receipt indicated 825 Post
17 Street Associates was served with the CAO on April 23, 2013. The CAO directed both
18 Global Waste Management and 825 Post Street Associates to, "remove all waste tires
19 in excess of 4,999 from the premises within 15 days from the date of service of [the]
20 CAO, in accordance with the following waste tire removal schedule . . . all waste tires . .
21 . shall be removed by a registered waste tire hauler . . . to an approved facility." The
22 CAO also ordered Global Waste Management and 825 Post Street Associates to at no
23 time, "accept additional waste tires at the site unless there are less than 4,999 and the
24 acceptance of additional waste tires will not result in more than 4,999 waste tires at this
25 site," and to "reimburse CalRecycle for the cost of all inspections conducted within a
26 year from the issuance of this CAO that are in addition to those inspections required by
27 statute or regulation."

28 10. On May 7, 2013, CalRecycle Inspectors Blair, Baumann, and Payan

1 inspected the Site. The Inspectors observed approximately 3,143 waste tires on the
2 Site, demonstrating compliance with the CAO on that date.

3 11. On May 14, 2013, CalRecycle Inspectors Blair, Baumann, Payan and San
4 Mateo County Health Services Department Inspector, Marjorie Terrell, re-inspected the
5 Site. In Inspection Report #IW-1005931, the Inspectors stated that they determined that
6 approximately 12,167 waste tires were stored on the site in violation of Global Waste
7 Management's Minor Waste Tire Facility Permit and in violation of the CAO.

8 12. On July 31, 2013, CalRecycle Inspectors Michael Payan and Robert
9 Baumann conducted an additional inspection of the Site. In Inspection Report #IW-
10 1006440, the Inspectors stated that they determined that approximately 21,052 waste
11 tires were stored on the Site, in violation of Global Waste Management's Minor Waste
12 Tire Facility Permit and in violation of the CAO.

13 13. The Global Waste Management matter, Agency No. 2013-00010-REV;
14 2013-011151-ADC, Case No. IH13-015-TIR is related to the instant case.

15 14. The waste tire storage administrative penalties sought against 825 Post
16 Street Associates and Global Waste Management are based on the CAO.

17 15. The Global Waste Management matter, Agency No. 2013-00010-REV;
18 2013-011151-ADC, Case No. IH13-015-TIR was previously litigated during the informal
19 hearing that took place on December 10-12, 18-19, and 23, 2013, before Hearing
20 Officer Tamar Dyson, at the Department of Resources Recycling and Recovery
21 (CalRecycle) Office, 801 K Street, Room 1919, Sacramento, California 95812.

22 **WITHDRAWAL OF ADMINISTRATIVE COMPLAINT**

23 16. On February 10, 2014, 825 Post Steet Associates advised CalRecycle,
24 though their respective attorneys, that Global Waste Management had removed all
25 waste and used tires from the Site and that Global Waste Management no longer
26 occupies the Site as a tenant.

27 17. On or about February 10, 2014, James Forbes, President of JMF Capital,
28 Inc., G.P., 825 Post Street Associates, L.P., verbally represented to Heather L. Hunt,

1 Attorney for CalRecycle, that Global Waste Management had ceased to be tenants at
2 the Site, and that Global Waste Management had turned in its keys to building and had
3 no further access to the Site.

4 18. On or about February 20, 2014, Inspector Darrell Cullen of San Mateo
5 County, inspected the Site and observed zero tires both in and outside of the building
6 and further observed that the office rooms inside were completely empty.

7 19. Notwithstanding the compliance history described above, based on the
8 recent findings and the observed current condition of the Site, CalRecycle hereby
9 withdraws the Administrative Complaint served on 825 Post Street Associates, L.P., and
10 requests that the hearing dates of February 26 and 27, 2014 be vacated.

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13 Dated: 2-24-14

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15 HEATHER L. HUNT
16 Attorney for
17 DEPARTMENT OF RESOURCES,
18 RECYCLING AND RECOVERY
19 (CALRECYCLE)
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