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8
9 STATE OF CALIFORNIA

10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

11
12 In the matter of:

13 THE RECYCLE DEPOT, INC.,
14 OPERATOR, AND JEFF A. PRINS,
15 PROPERTY OWNER, AND PRINS &
16 SMITH, INC., PROPERTY OWNER

17
18 TPID NO: 1622736

19 TPID NO: 1108484
20

21
22 RESPONDENTS

) ADMINISTRATIVE DECISION FOR
WASTE TIRE STORAGE
ADMINISTRATIVE PENALTIES
PUBLIC RESOURCES CODE SECTION
42800, ET SEQ.

) AGENCY NO: 2016-011185-ADC
AGENCY NO: 2016-011187-ADC
AGENCY NO: 2016-011189-ADC

23 **INTRODUCTION AND PROCEDURAL HISTORY**

24
25 The California Integrated Waste Management Board (CIWMB) is now the California
26 Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE
27 succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code
28 (PRC) section 40401(a)(1).

1 On November 18, 2016, CALRECYCLE issued an ADMINISTRATIVE COMPLAINT
2 FOR WASTE TIRE STORAGE ADMINISTRATIVE PENALTIES (hereinafter, "Administrative
3 Complaint") to The Recycle Depot, Inc. and Jeff A. Prins (hereinafter collectively referred to as
4 "HANFORD RESPONDENTS") seeking \$778,750.00 in penalties for waste tire storage
5 violations, and to The Recycle Depot, Inc. and Prins & Smith, Inc. (hereinafter collectively
6 referred to as "VISALIA RESPONDENTS") seeking \$238,750.00 in penalties for waste tire
7 storage violations. Accordingly, penalties levied to The Recycle Depot, Inc. total
8 \$1,017,500.00.

9 Service of the Administrative Complaint on HANFORD RESPONDENTS and VISALIA
10 RESPONDENTS was completed on December 24, 2016.

11 HANFORD RESPONDENTS and VISALIA RESPONDENTS were provided 15 days
12 from the date of service of the Administrative Complaint to request a hearing and file a "Notice
13 of Defense/Request for Hearing" with CALRECYCLE to refute the allegations contained
14 therein.

15 Neither HANFORD RESPONDENTS nor VISALIA RESPONDENTS filed a "Notice of
16 Defense/Request for Hearing" with CALRECYCLE. The matter shall be determined as a
17 default pursuant to Title 14 of the California Code of Regulations (CCR) section 18466 and
18 Government Code section 11520. CALRECYCLE takes action against HANFORD
19 RESPONDENTS and VISALIA RESPONDENTS based upon evidence and affidavits that may
20 be used without any notice to HANFORD RESPONDENTS or VISALIA RESPONDENTS.

21 22 **FACTUAL FINDINGS**

23 1. The Administrative Complaint was executed by HEATHER L. HUNT, Attorney III,
24 acting in her official capacity.

25 2. CALRECYCLE has authority to regulate and conduct enforcement actions
26 regarding Waste Tire Facilities and Waste and Used Tire Haulers within the State of California
27 under PRC sections 42800 et seq., 42950 et seq., and attendant regulations contained in Title
28 14 of the California Code of Regulations (CCR).

1 3. PRC section 42808 defines a waste tire facility as:

2 . . . a location, other than a solid waste facility permitted pursuant to this division that
3 receives for transfer or disposal less than 150 tires per day averaged on an annual
4 basis, where, at any time, waste tires are stored, stockpiled, accumulated, or discarded.
"Waste tire facility" includes all of the following:

5 (a) "Existing waste tire facility" means a waste tire facility which is receiving, storing, or
6 accumulating waste tires, or upon which waste tires are discarded, on January 1, 1990.

7 (b) "Major waste tire facility" means a waste tire facility where, at any time, 5,000 or
8 more waste tires are or will be stored, stockpiled, accumulated, or discarded.

9 (c) "Minor waste tire facility" means a waste tire facility where, at any time, 500 or more,
10 but less than 5,000, waste tires are or will be stored, stockpiled, accumulated, or
11 discarded. However, a "minor waste tire facility" does not include a tire dealer or an
12 automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who
13 stores waste tires on the dealer's or dismantler's premises for less than 90 days if not
14 more than 1,500 total used or waste tires are ever accumulated on the dealer's or
15 dismantler's premises.

16 (Pub. Resources Code § 42808.)

17 4. Pursuant to PRC section 42823, "Except [for cement manufacturing plants
18 described in section 42823.5], no person shall establish a new major waste tire facility . . .
19 unless the person has obtained a major waste tire facility permit issued by the department."

20 5. 14 CCR section 18420 requires every operator of a waste tire facility to acquire a
21 waste tire facility permit unless the facility falls into an exception or exemption category.

22 6. 14 CCR section 18423 requires every operator of a new major or minor waste
23 tire facility to submit a major waste tire facility permit application to CALRECYCLE.

24 7. Pursuant to PRC section 42824, "... it is unlawful to direct or transport waste tires
25 to a major waste tire facility or to accept waste tires at a major waste tire facility unless the
26 operator has obtained a major waste tire facility permit."

27 8. Pursuant to PRC section 42834, "... it is unlawful to direct or transport waste tires
28 to a minor waste tire facility or to accept waste tires at a minor waste tire facility unless the
operator has obtained a minor waste tire facility permit."

9. 14 CCR sections 17350 through 17356 prescribe the minimum storage standards
(State Minimum Standards or SMS) required at a waste tire facility.

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1 10. 14 CCR section 17351 sets forth general SMS required at a waste tire facility as:

2 Pursuant to the California Fire Code, Title 24 of the California Code of Regulations,
3 sections 3201.1 through 3210.1, 3404.1 through 3408.2, which are hereby incorporated
4 by reference, any person storing 500 or more waste tires shall meet the following
5 requirements:

6 (a) The operator of the waste tire facility or solid waste facility shall demonstrate that
7 they have prepared and submitted a fire safety plan to the fire code official having
8 jurisdiction over a particular facility for review and approval. The fire safety plan shall
9 include provisions for fire department vehicle access. At least one copy of the most
10 recent, up-to-date fire safety plan and, if applicable, any approvals shall be made
11 available at the time of inspection and at the time of application for a new permit, permit
12 review or permit revision.

13 (b) Communication equipment shall be maintained at all waste tire facilities and solid
14 waste facilities, if they are staffed by an attendant, to ensure that the site operator can
15 contact local fire authority in the event of fire. The telephone number of the local fire
16 authority and location of the nearest telephone shall be posted conspicuously in
17 attended locations.

18 (c) Adequate equipment to aid in the control of fires shall be provided and maintained at
19 the waste tire facility or solid waste facility at all times. At a minimum, the following items
20 shall be maintained on site and in working order at all times:

21 (1) Buildings or structures shall be equipped with portable fire extinguishers in
22 accordance with Section 906 of the California Fire Code;

23 (2) One (1) pike pole or comparable pole at least 10 feet in length to separate burning
24 from non-burning tires;

25 (3) One (1) round point and one (1) square point shovel; and

26 (4) One (1) portable fire extinguisher with a minimum rating of A:40-B:C shall be carried
27 on each piece of fuel-powered equipment used to handle waste tires;.

28 (d) An adequate water supply shall be available for use by the local fire authority. The
water supply shall be capable of delivering at least 1,000 gallons per minute for a
duration of at least three hours and at least 2,000 gallons per minute for a duration of at
least three hours if the sum of altered plus whole waste tires exceeds 10,000. The water
supply shall be arranged such that any part of the storage yard can be reached by using
not more than 500 feet of hose.

(e) The following precautions against fire shall be maintained at the waste tire facility or
solid waste facility at all times:

(1) No open burning.

(2) Open flame, cutting, welding, or heating devices, blow torches, or highly flammable
materials, including, but not limited to, inner tubes, are prohibited within 40 feet of waste
tires.

(3) No smoking, except in designated areas.

1 (4) Tire storage piles shall not be located beneath electrical power lines having a
2 voltage in excess of 750 volts or that supply power to fire emergency systems.

3 (f) All of the requirements of subsections (a) through (e) above shall apply unless the
4 local fire authority having jurisdiction over a particular facility determines that a different
5 requirement is necessary or adequate to meet the intent of these regulations for fire
6 control and the protection of life and property. This may include the availability of earth
7 moving equipment or other approved means to control the tire fire. Any change in, or
8 any new, local fire authority requirements that affect the requirements in this Article shall
9 be reported to the Department by the operator within 30 days after their effective date.
10 Any alternative requirements approved by the local fire authority shall be subject to
11 Department concurrence at the time of issuance or review of the permit.

12 (Cal. Code Regs., tit. 14 § 17351.)

13 11. 14 CCR section 17352 sets forth requirements for access to and security at a
14 waste tire facility, as follows:

15 (a) Signs – For waste tire facilities and solid waste facilities open to the public a sign
16 shall be posted at the facility entrance stating the name of the operator, operating hours,
17 and site rules.

18 (b) Attendant - An attendant shall be present when the waste tire facility or solid waste
19 facility is open for business if the facility receives tires from persons other than the
20 operator of the facility.

21 (c) Access - An access road to the waste tire facility or solid waste facility shall be
22 maintained passable for emergency equipment, fire apparatus, and vector control
23 vehicles at all times. Unauthorized access shall be strictly controlled.

24 (Cal. Code Regs., tit. 14 § 17352.)

25 12. 14 CCR section 17353 sets forth requirements for vector control at a waste tire
26 facility, as follows:

27 (a) All waste tires shall be stored in a manner which prevents the breeding and
28 harborage of mosquitoes, rodents, and other vectors by any of the following means:

(1) Cover with impermeable barriers other than soil to prevent entry or accumulation of
precipitation; or

(2) Use of treatments or methods to prevent or eliminate vector breeding as necessary,
provided the control program is approved as appropriate and effective by the local
vector control authority, if such authority exists. If no local vector control authority exists,
the local Environmental Health Department or other local agency with authority over
vector control shall approve the vector control plan. Any control program approved by
the local vector control authority shall be subject to Department concurrence at the time
of issuance or review of the waste tire facility permit.

(Cal. Code Regs., tit. 14 § 17353.)

1 13. 14 CCR section 17354 sets forth requirements for the outdoor storage of waste
2 tires at a waste tire facility, as follows:

3
4 (a) Waste tires stored outdoors shall be stored as prescribed in the subsections below,
5 and pursuant to the California Fire Code, Title 24 of the California Code of Regulations,
6 sections 3405.1 through 3405.9, which are hereby incorporated by reference.

7 (b) All of the requirements in subsections (c) through (j) below shall apply to the storage
8 of waste tires unless, for any particular requirement, the local fire authority having
9 jurisdiction over a particular facility determines that a different requirement is necessary
10 or adequate to meet the intent of these regulations for the prevention of fire and the
11 protection of life and property. Any change in, or any new, local fire authority
12 requirements that affect the requirements in this Article shall be reported to the
13 Department by the operator within 30 days after their effective date. Any alternative
14 requirements approved by the local fire authority shall be subject to Department
15 concurrence at the time of issuance or review of the permit.

16 (c) Storage of waste tires shall be restricted to individual piles that do not exceed 5,000
17 square feet of contiguous area. Pile width shall not exceed 50 feet. Any pile shall not
18 exceed 50,000 cubic feet in volume or 10 feet in height.

19 (d) Tire storage piles containing less than 500 waste tires shall be located no closer
20 than 10 feet from lot lines or buildings; however, tire piles containing less than 500
21 waste tires may be stored within 10 feet of lot lines or buildings after the operator has
22 obtained approval from the fire code official. Waste tire piles containing less than 500
23 waste tires shall not exceed 6 feet in height when within 20 feet of any property line,
24 building, or perimeter fencing. Side slopes shall not exceed 60 degrees.

25 (e) Tire storage piles containing 500 or more waste tires shall be located at least 50 feet
26 from lot lines and buildings, unless the facility is a waste tire facility described in
27 subsections (1) through (4) below.

28 (1) Where the waste tire facility has obtained approval from the fire code official and the
waste tires are stored at an exempt or excluded site defined in 14 CCR section
17225.822, tire storage piles may be located within 50 feet but no closer than 10 feet
from lot lines or from buildings.

(2) Where the waste tire facility has obtained approval from the fire code official and the
waste tires are stored at a permitted minor waste tire facility, tire storage piles may be
located closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from
buildings.

(3) Where waste tires are stored at a minor waste tire facility that was issued a minor
waste tire facility permit prior to January 1, 2011, tire storage piles may be located
closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from buildings.

(4) In no case shall the waste tire storage piles exceed 6 feet in height when within 20
feet of any lot line or perimeter fencing, and side slopes shall not exceed 60 degrees.

(f) Any individual waste tire pile shall be separated from any other waste tire pile,
combustible ground vegetation, stored used tires, waste tire material, or products made
from tires, by a distance of at least 40 feet.

1 (g) Waste tire piles shall not be located under bridges, elevated trestles, elevated
2 roadways, or stored in an area where they may be subjected to immersion in water
3 during a 100-year storm unless the owner or operator demonstrates that the waste tire
4 facility or solid waste facility will be designed and operated so as to prevent waste tires
5 from migrating off-site.

6 (h) At a waste tire facility or solid waste facility storing more than 150,000 cubic feet of
7 waste tires, adjacent individual waste tire piles shall be considered a group, and the
8 aggregate volume of storage piles in a group shall not exceed 150,000 cubic feet. Each
9 group shall be separated from any other group by a distance of at least 75 feet.

10 (i) Tires must be removed from rims immediately upon arrival at the waste tire facility or
11 solid waste facility. Tires temporarily attached to rims awaiting removal shall be stored
12 separate from other waste tires.

13 (j) The waste tire facility or solid waste facility shall be designed and constructed to
14 provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential
15 tire fire.

16 (Cal. Code Regs., tit. 14 § 17354.)

17 **Facts Specific to Hanford Site**

18 14. CALRECYCLE incorporates paragraphs 1 through 13, above.

19 15. HANFORD RESPONDENTS are responsible for allowing 5,000 or more waste
20 tires to be illegally stored at 10716 8th Avenue, Hanford, California, (the Hanford site) without
21 first obtaining a "major Waste Tire Facility Permit," in violation of PRC section 42823, and for
22 accepting waste tires at the illegal major waste tire facility site without first obtaining a permit in
23 violation of PRC section 42824.

24 16. HANFORD RESPONDENTS are additionally in violation of 14 CCR section
25 17351 for failure to comply with fire prevention requirements and 14 CCR section 17354 for
26 failure to properly store waste tires outdoors.

27 17. HANFORD RESPONDENTS were issued a minor waste tire facility permit on
28 October 6, 2010, authorizing HANFORD RESPONDENTS to store up to 4,999 waste tires at
the Hanford site. This permit was valid for five years, and expired on October 6, 2015.

18 18. Prior to the permit expiration date, CALRECYCLE made numerous attempts to
19 communicate with HANFORD RESPONDENTS to inquire after the required documentation for
20 permit renewal. Letters regarding permit expiration and renewal were sent by CALRECYCLE
21 to HANFORD RESPONDENTS on March 25, 2014, July 9, 2015, and January 29, 2016.

1 19. To the date of this Administrative Complaint, HANFORD RESPONDENTS have
2 not submitted an application for permit review and renewal. Therefore, as an unpermitted
3 facility, HANFORD RESPONDENTS are not authorized to store more than 499 waste tires at
4 the Hanford site.

5 20. At no time have HANFORD RESPONDENTS met the requirements for an
6 exemption or exclusion from the permitting requirement.

7 21. During an inspection of the Hanford site on October 7, 2015, and documented in
8 CALRECYCLE's Survey and Inspection Report (Inspection Report) number IW-1029387,
9 CALRECYCLE inspectors determined that approximately 13,440 waste tires were being stored
10 onsite. Because HANFORD RESPONDENTS' permit expired on October 6, 2015, HANFORD
11 RESPONDENTS were not authorized to store more than 499 waste tires onsite. Thus, the
12 Hanford site was deemed an illegal major waste tire facility. HANFORD RESPONDENTS were
13 issued a Notice of Violation for operating a major waste tire facility without a major waste tire
14 facility permit and were directed to reduce the waste tire count to 499 or below by November
15 12, 2015.

16 22. During the same inspection of the Hanford site on October 6, 2015,
17 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
18 with fire prevention measures, and 14 CCR section 17354 for failure to properly store waste
19 tires outdoors.

20 23. During a re-inspection of the Hanford site on December 8, 2015, and
21 documented in Inspection Report number IW-1031879, CALRECYCLE inspectors determined
22 that approximately 4,805 waste tires remained onsite. CALRECYCLE inspectors informed
23 HANFORD RESPONDENTS that they were continuing to operate without a valid waste tire
24 facility permit and were only legally allowed to store up to 499 waste tires onsite. Due to
25 HANFORD RESPONDENTS' good faith effort to reduce the waste tires stored onsite since the
26 October 7, 2015 inspection, CALRECYCLE granted HANFORD RESPONDENTS a
27 compliance extension deadline to January 19, 2016.

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1 24. During the same inspection of the Hanford site on December 8, 2015,
2 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
3 with fire prevention measures, and 14 CCR section 17354 for failure to properly store waste
4 tires outdoors.

5 25. During a follow-up inspection of the Hanford site on January 20, 2016, and
6 documented in Inspection Report number IW-1033552, CALRECYCLE inspectors determined
7 that approximately 16,609 waste tires were being stored onsite. HANFORD RESPONDENTS
8 were informed that CALRECYCLE would pursue escalated enforcement for operating a major
9 waste tire facility without a major waste tire facility permit.

10 26. During the same inspection of the Hanford site on January 20, 2016,
11 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
12 with fire prevention measures, 14 CCR section 17354 for failure to properly store waste tires
13 outdoors, 14 CCR section 17352 for failure to comply with facility access and security
14 provisions, and 14 CCR section 17353 for failure to comply with vector control requirements.

15 27. On February 19, 2016, CALRECYCLE issued Cleanup and Abatement Order
16 number 2016-011054-CAO (the CAO) to HANFORD RESPONDENTS. The CAO ordered
17 HANFORD RESPONDENTS to “[r]emove all waste and used tires from this site within 15 days
18 from the date of service of this [CAO].” The CAO further ordered to HANFORD
19 RESPONDENTS, “At no time may you accept additional waste or used tires at this site for the
20 next 45 days.”

21 28. During an inspection of the Hanford site on April 7, 2016, and documented in
22 Inspection Report number IW-1037327, CALRECYCLE inspectors determined that
23 approximately 24,679 waste tires were being stored onsite, in violation of the CAO and
24 creating an illegal major waste tire facility. CALRECYCLE inspectors issued a Notice of
25 Violation to HANFORD RESPONDENTS for operating a major waste tire facility without a
26 major waste tire facility permit.

27 29. During the same inspection of the Hanford site on April 7, 2016, CALRECYCLE
28 inspectors also noted violations of 14 CCR section 17351 for failure to comply with fire

1 prevention measures, 14 CCR section 17354 for failure to properly store waste tires outdoors,
2 and 14 CCR section 17353 for failure to comply with vector control requirements.

3 30. During an inspection of the Hanford site on June 29, 2016, and documented in
4 Inspection Report number IW-1041150, CALRECYCLE determined that approximately 24,679
5 waste tires remained onsite, in violation of the CAO and creating an illegal major waste tire
6 facility. CALRECYCLE inspectors issued a Notice of Violation to HANFORD RESPONDENTS
7 for operating a major waste tire facility without a major waste tire facility permit.

8 31. During the same inspection of the Hanford site on June 29, 2016, CALRECYCLE
9 inspectors also noted violations of 14 CCR section 17351 for failure to comply with fire
10 prevention measures, and 14 CCR section 17354 for failure to properly store waste tires
11 outdoors.

12 32. Between October 7, 2015, and April 7, 2016, HANFORD RESPONDENTS
13 accepted waste tires at the Hanford site on at least 37 occasions while the Hanford site was
14 operating as an illegal major waste tire facility, in violation of PRC section 42824, as
15 documented in the table below:

CTL Form	Violation	Hauler	Hauler Name	Load Date	Facility	Del
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/19/2016	1622736	714
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/12/2016	1622736	676
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/10/2016	1622736	295
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/10/2016	1622736	358
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/10/2016	1622736	500
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/10/2016	1622736	876
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/04/2016	1622736	560
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	02/02/2016	1622736	505
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	01/11/2016	1622736	511
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	01/07/2016	1622736	441
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/28/2015	1622736	445

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1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/28/2015	1622736	448
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/21/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/18/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/18/2015	1622736	615
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/16/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/16/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/16/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/16/2015	1622736	800
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/08/2015	1622736	528
1108484-	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	12/08/2015	1622736	479
4674665-C	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/18/2015	1622736	490
4674665-A	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/16/2015	1622736	500
4674666-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/13/2015	1622736	447
4674738-C	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/13/2015	1622736	448
4674738-A	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/13/2015	1622736	400
4674739-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/11/2015	1622736	697
4674740-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	11/05/2015	1622736	480
4674737-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/29/2015	1622736	444
4674741-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/29/2015	1622736	468
4674742-C	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/28/2015	1622736	406
4674742-A	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/28/2015	1622736	679
4674743-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/27/2015	1622736	545
4674746-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/15/2015	1622736	500
4674747-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/14/2015	1622736	414
4674745-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/07/2015	1622736	527
4674744-B	Accepting waste tires at an unauthorized location	1108484	The Recycle Depot, Inc.	10/07/2015	1622736	465

1 **Facts Specific to Visalia Site**

2 33. CALRECYCLE incorporates paragraphs 1 through 13, above.

3 34. VISALIA RESPONDENTS are responsible for allowing 500 or more waste tires to
4 be illegally stored at 8241 West Goshen Avenue, Visalia, California, (the Visalia site) without
5 first obtaining a "minor Waste Tire Facility Permit," in violation of 14 CCR section 18423, and
6 for accepting waste tires at the illegal minor waste tire facility site without first obtaining a
7 permit in violation of PRC section 42834.

8 35. VISALIA RESPONDENTS are additionally in violation of 14 CCR section 17351,
9 for failure to comply with fire prevention requirements, 14 CCR section 17353 for failure to
10 comply with vector control requirements, and 14 CCR section 17354 for failure to properly
11 store waste tires outdoors.

12 36. At no time have VISALIA RESPONDENTS been in possession of either a minor
13 or a major waste tire facility permit for the Visalia site, and at no time have VISALIA
14 RESPONDENTS met the requirements for an exemption or exclusion from the permitting
15 requirement. Therefore, at no time have VISALIA RESPONDENTS been authorized to store
16 more than 499 waste tires at the Visalia site.

17 37. During an inspection of the Visalia site on October 8, 2015, and documented in
18 Inspection Report number IW-1029322, CALRECYCLE inspectors determined that
19 approximately 16,308 waste tires were being stored onsite. Because VISALIA
20 RESPONDENTS were not authorized to store more than 499 waste tires onsite, the Visalia
21 site was deemed an illegal major waste tire facility. VISALIA RESPONDENTS were issued a
22 Notice of Violation for operating a major waste tire facility without a major waste tire facility
23 permit and were directed to reduce the waste tire count to 499 or below by November 13,
24 2015.

25 38. During the same inspection of the Visalia site on October 8, 2015,
26 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
27 with fire prevention measures, 14 CCR section 17354 for failure to properly store waste tires
28 outdoors, 14 CCR section 17353 for failure to comply with vector control requirements, and 14

1 CCR 17352 for failure to comply with facility access and security provisions.

2 39. During a re-inspection of the Visalia site on December 8, 2015, and documented
3 in Inspection Report number IW-1031871, CALRECYCLE inspectors determined that
4 approximately 1,995 waste tires remained onsite. CALRECYCLE inspectors informed VISALIA
5 RESPONDENTS that they were continuing to operate without a valid waste tire facility permit
6 and were only legally allowed to store up to 499 waste tires onsite. Due to VISALIA
7 RESPONDENTS' good faith effort to reduce the waste tires stored onsite since the October 8,
8 2015 inspection, CALRECYCLE granted VISALIA RESPONDENTS a compliance deadline
9 extension to January 8, 2016.

10 40. During the same inspection of the Visalia site on December 8, 2015,
11 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
12 with fire prevention measures, 14 CCR section 17354 for failure to properly store waste tires
13 outdoors, and 14 CCR section 17353 for failure to comply with vector control requirements.

14 41. During a follow-up inspection of the Visalia site on January 20, 2016, and
15 documented in Inspection Report number IW-1033765, CALRECYCLE inspectors determined
16 that approximately 4,443 waste tires were being stored onsite. VISALIA RESPONDENTS
17 were informed that CALRECYCLE would pursue escalated enforcement for operating a minor
18 waste tire facility without a minor waste tire facility permit.

19 42. During the same inspection of the Visalia site on January 20, 2016,
20 CALRECYCLE inspectors also noted violations of 14 CCR section 17351 for failure to comply
21 with fire prevention measures, 14 CCR section 17354 for failure to properly store waste tires
22 outdoors, and 14 CCR section 17353 for failure to comply with vector control requirements.

23 43. On February 11, 2016, CALRECYCLE issued Cleanup and Abatement Order
24 number 2016-011055-CAO (the CAO) to VISALIA RESPONDENTS. The CAO ordered
25 VISALIA RESPONDENTS to "[r]emove all waste and used tires from this site within 15 days
26 from the date of service of this [CAO]." The CAO further ordered to VISALIA RESPONDENTS,
27 "At no time may you accept additional waste or used tires at this site for the next 45 days."

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1 44. During a re-inspection of the Visalia site on March 17, 2016, and documented in
2 Inspection Report number IW-1036149, CALRECYCLE inspectors determined that
3 approximately 4,443 waste tires remained onsite, in violation of the CAO and creating an illegal
4 minor waste tire facility. CALRECYCLE inspectors advised VISALIA RESPONDENTS that it
5 was operating a minor waste tire facility without a minor waste tire facility permit, and advised
6 VISALIA RESPONDENTS to reduce the waste tire count to zero.

7 45. During the same inspection of the Visalia site on March 17, 2016, CALRECYCLE
8 inspectors also noted violations of 14 CCR section 17351 for failure to comply with fire
9 prevention measures, 14 CCR section 17354 for failure to properly store waste tires outdoors,
10 and 14 CCR section 17353 for failure to comply with vector control requirements.

11 46. During a subsequent re-inspection of the Visalia site on June 22, 2016, and
12 documented in Inspection Report number IW-1040889, CALRECYCLE inspectors determined
13 that approximately 4,504 tires were being stored on site, in continued violation of the CAO and
14 creating an illegal minor waste tire facility.

15 47. During the same inspection of the Visalia site on June 22, 2016, CALRECYCLE
16 inspectors also noted violations of 14 CCR section 17351 for failure to comply with fire
17 prevention measures, 14 CCR section 17354 for failure to properly store waste tires outdoors,
18 14 CCR section 17353 for failure to comply with vector control requirements, and 14 CCR
19 17352 for failure to comply with facility access and security provisions.

20 21 LEGAL CONCLUSIONS

22 HANFORD RESPONDENTS

23 48. For at least 161 days between January 20, 2016 and June 29, 2016, HANFORD
24 RESPONDENTS violated PRC section 42823 by creating a major waste tire facility at the
25 Hanford site without first obtaining a major waste tire facility permit.

26 49. On at least 37 occasions, HANFORD RESPONDENTS violated PRC section
27 42824 by accepting waste tires at the Hanford site while the site was operating as an illegal
28 major waste tire facility.

1 50. On at least three occasions, HANFORD RESPONDENTS violated 14 CCR
2 section 17354 for failure to store waste tires outdoors in accordance with the regulations.

3 51. On at least two occasions, HANFORD RESPONDENTS violated 14 CCR section
4 17351 for failure to comply with fire prevention measures.

5 **VISALIA RESPONDENTS**

6 52. For at least 155 days between January 20, 2016 and June 22, 2016, VISALIA
7 RESPONDENTS violated 14 CCR section 18420(a) by creating a minor waste tire facility at
8 the Visalia site without first obtaining a minor waste tire facility permit.

9 53. On at least three occasions, VISALIA RESPONDENTS violated 14 CCR section
10 17354 for failure to store waste tires outdoors in accordance with the regulations.

11 54. On at least three occasions, VISALIA RESPONDENTS violated 14 CCR section
12 17353 for failure to comply with vector control requirements.

13 55. On at least three occasions, VISALIA RESPONDENTS violated 14 CCR section
14 17351 for failure to comply with fire prevention measures.

15 **ORDER**

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

18 **THE FOLLOWING ORDER** is hereby made:

19 The Recycle Depot Inc. and Jeff A. Prins ("HANFORD RESPONDENTS")
20 are hereby ordered to pay \$778,750.00 in penalties for intentional waste tire storage violations.

21 The Recycle Depot Inc. and Prins & Smith, Inc. ("VISALIA RESPONDENTS") are
22 ordered to pay \$238,750.00 in penalties for intentional waste tire storage violations.

23 Accordingly, The Recycle Depot, Inc. is ordered to pay a total of \$1,017,500.00.

24 **RESPONDENTS' RIGHT TO FILE WRITTEN MOTION**

25 Pursuant to Government Code section 11520(c), HANFORD RESPONDENTS and
26 VISALIA RESPONDENTS have a right to serve CALRECYCLE with a written motion
27 requesting that the decision be vacated and stating the grounds relied on:

28 Within seven days after service on the respondent of a decision based on the

1 respondent's default, the respondent may serve a written motion requesting that the
2 decision be vacated and stating the grounds relied on. The agency in its discretion
3 may vacate the decision and grant a hearing on a showing of good cause. As used
in this subdivision, good cause includes, but is not limited to, any of the following:

- 4 (1) Failure of the person to receive notice served pursuant to Section 11505.
- 5 (2) Mistake, inadvertence, surprise, or excusable neglect.

6 (Gov't Code § 11520(c).)

7 This DECISION shall become effective on the date signed below.

8
9 Dated this 27 day of January 2017.



10
11 MARK DE BIE
12 Deputy Director
13 DEPARTMENT OF RESOURCES,
14 RECYCLING AND RECOVERY
15 (CALRECYCLE)
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