

BEFORE THE
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

IN THE MATTER OF:

Victor Cervantes, OPERATOR,
DBA: NorCal Waste Tire Management, AND
801 Chesley LLC, PROPERTY OWNER
TPID NUMBER: 1947986-01
ASSESSOR PARCEL NUMBER: 409-131-
002-1

Cleanup and Abatement Order

Number: 2024-102435-CAO

Public Resources Code section 42845

TO: Victor Cervantes, Operator, DBA NorCal Waste Tire Management, and 801
Chesley LLC, Property Owner:

PLEASE TAKE NOTICE THAT:

You are the Operator of a waste tire facility known as NorCal Waste Tire Management or Property Owner of property located at 801 Chesley Ave. Suite C, Point Richmond, CA 94801-2135, Assessor Parcel Number 409-131-002-1 (this site), upon which NorCal Waste Tire Management is located, as those terms are defined in Public Resources Code (PRC) sections 42804, 42805 and 42808. The property for this site has been identified in Inspection Reports attached hereto and incorporated herein by reference as Appendix A. The PRC and Title 14 of the California Code of Regulations (14 CCR) references are attached hereto and incorporated herein by reference as Appendix B.

The Department of Resources Recycling and Recovery (CalRecycle) is authorized to act as the enforcement agency for waste tire facilities, pursuant to PRC section 42800 et seq., and is the enforcement agency for this waste tire site.

This site meets the definition of a minor waste tire facility as that term is defined by PRC section 42808(c). A minor waste tire facility is “a waste tire facility where, at any

time, 500 or more, but less than 5,000, waste tires are or will be stored, stockpiled, accumulated, or discarded.”

This site is legally allowed to store up to 499 waste tires without first obtaining a waste tire facility permit from CalRecycle.

To date, you have not acquired a minor waste tire facility permit for this site.

CalRecycle inspected this site on December 18, 2023, as documented in Inspection Report IW-1936586, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 4,499 waste tires were being stored on site.

CalRecycle issued a Notice of Violation to you as the Property Owner/Operator on January 5, 2024, as documented in the above inspection report, requiring all waste tires in excess of your authorized limit of 499 to be removed by January 19, 2024.

CalRecycle re-inspected this site on January 24, 2024, as documented in Inspection Report IW-1937809, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 767 waste tires remained on site.

CalRecycle conducted a second re-inspection at this site on February 08, 2024, as documented in Inspection Report IW-1938517, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 1,268 waste tires remained on site.

CalRecycle conducted a third re-inspection at this site on April 25, 2024, as documented in Inspection Report IW-1941460, which is attached hereto and incorporated herein by reference as Appendix A and determined that approximately 992 waste tires remained on site.

You are currently in violation of California Waste Tire Laws as prescribed by PRC section 42800 et seq. and 14 CCR section 18420 et seq.

Specifically, you are in violation of:

- PRC section 42834 for accepting and storing 500 or more, but less than 5,000 waste tires on this site without first obtaining a minor waste tire facility permit.
- 14 CCR section 17351(a) for not preparing and submitting a fire safety plan to the local fire authority.
- 14 CCR section 17351(c) for not maintaining adequate equipment to aid in the control of fires.
- 14 CCR section 17354(d) for not storing all waste tire piles containing less than 500 waste tires at least 10 feet from lot lines and buildings.
- 14 CCR section 18447 for not maintaining copies of waste and used tire receipt and disposal records on site for three years.
- 14 CCR section 18459 for not ensuring all manifest forms are complete and signed under penalty of perjury by the appropriate representative without missing or incomplete information.
- 14 CCR section 18459.1 for not posting the Tire Program Identification (TPID) certificate in a conspicuous location.
- 14 CCR section 18459.3 for not retaining a copy of the completed manifest forms at the place of business for 3 years.
- 14 CCR section 18460.2 for transporting waste or used tires without having a completed manifest form in the vehicle.
- 14 CCR section 17357 for not creating and maintaining records of waste tires stored, shipped, and received for the site, and not retaining these records for 3 years.

CalRecycle is authorized to order waste tire facility Operators who are in violation of the aforementioned laws to clean up waste tire piles, abate the effects thereof, or otherwise remedy a case of threatened pollution or nuisance, pursuant to PRC section 42845(a).

Where there is no identified “Operator”, the Operator shall mean the “Owner”, pursuant to 14 CCR, section 17225.755.

CalRecycle is authorized to seek administrative penalties of not less than five hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, against any person who violates any provision of Chapter 16 of Part 3 of Division 30 of the PRC, or any permit, rule, regulation, standard or requirement issued or adopted pursuant therefrom.

THEREFORE, PURSUANT TO PRC SECTION 42845, YOU ARE ORDERED TO:

1. Remove all waste and used tires from this site within 10 business days from the date of service of this Cleanup and Abatement Order (hereafter, “CAO” or “Order”), or within 10 business days provide CalRecycle with a reasonable schedule for compliance for CalRecycle’s consideration and approval in accordance with the following:
 - a. All waste tires (whole and/or passenger tire equivalents, pursuant to 14 CCR section 17225.770) and used tires shall be removed by a registered waste tire hauler, as prescribed by PRC section 42950 et seq. A CalRecycle approved waste tire manifest must accompany and document each load of waste and used tires removed, and a copy of each completed manifest must be submitted to CalRecycle within 10 business days from the manifest load date. Failure to comply with this provision may result in penalties, pursuant to PRC section 42962.
 - b. CalRecycle must approve the destination of all waste and used tires removed from this site to ensure that a registered waste tire hauler legally transports them to an approved facility. All waste and used tires removed from this site shall be transported to this approved destination.

2. Following confirmation by CalRecycle of compliance with removing all waste and used tires as required by paragraph 1 above, maintain a zero waste and used tire count for 30 days. At no time between the date of service of this CAO and the end of the 30-day zero waste and used tire period may you accept additional waste or used tires at this site.
3. After the 30-day zero waste and used tire period, maintain 499 or fewer waste tires onsite at all times, unless you first obtain a waste tire facility permit from CalRecycle.
4. You shall reimburse CalRecycle for the cost of all inspections conducted within a year from the issuance of this CAO that are in addition to those inspections required by statute or regulation. The cost shall include, but shall not be limited to, expenses incurred for preparing for the inspection, traveling to and from the inspection, and writing up the inspection reports, at the same amounts that are determined annually and approved for enforcement agents to be charged by CalRecycle.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTIONS 42843, 42845, 42850 and 42850.1:

CalRecycle may seek penalties in the amount of not less than five hundred dollars (\$500) and up to ten thousand dollars (\$10,000) for each violation of a separate provision or, for continuing violations, for each day the violation continues, pursuant to PRC sections 42850 and 42850.1. Civil penalties may be imposed in a civil action or may be imposed administratively, pursuant to PRC section 42850 et seq. CalRecycle is authorized to calculate the accrual of civil penalties beginning with the first date of non-compliance.

If you do not complete or comply with the above actions ordered by this CAO, CalRecycle may petition the superior court for injunctive relief to enforce this CAO pursuant to PRC section 42845(d).

If a decision is made in favor of CalRecycle in an administrative or civil hearing in accordance with PRC section 42850 et seq., CalRecycle or its contractors may subsequently enter your property for the purposes of abatement or remediation without your consent, pursuant to PRC section 42846.5.

You have 10 business days from the date of service of this order to file a petition with CalRecycle raising any substantial issues that are appropriate for review. CalRecycle will review the petition and respond within 30 business days from the date of receipt by CalRecycle. Regardless of whether you file a petition, you must comply with this Order, as required by PRC section 42845.

If you fail to remove the tires as required by this Order by the required date, CalRecycle is authorized to expend available funds to perform any necessary cleanup, abatement or remedial work, as set forth in PRC section 42845 et seq.

If CalRecycle expends funds to perform any cleanup, abatement or remedial work, CalRecycle may seek cost reimbursement from you and any other responsible party acting as the Operator or Property Owner, pursuant to PRC section 42847.

Moreover, funds so expended by CalRecycle constitute a lien upon the real property owned by any responsible party that is subject to the remedial action, pursuant to PRC section 42847.5.

Nothing in this CAO shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of yours or any other responsible party's past, current or future operations acting as the Operator or Property Owner. Notwithstanding compliance with the terms of this CAO, you may be required to take further actions as are necessary to protect the public health, safety, or the environment.

CalRecycle shall not be liable for injuries or damages to persons or property resulting from acts or omissions by you or any other responsible party acting as the Operator or Property Owner, or related parties in carrying out activities pursuant to this CAO; nor shall CalRecycle be held as a party to any contract entered into by you or any

other responsible party acting as Operator or Property Owner or their agent(s) in carrying out activities pursuant to this CAO.

This CAO does not relieve you or any other responsible party acting as the Operator or Property Owner from complying with all other local, state and federal requirements.

This CAO may only be amended in writing by an authorized CalRecycle representative.

This CAO shall become effective as of the date signed below.

Each provision of this CAO shall remain effective and enforceable until stayed, modified, or suspended by CalRecycle.

If you have any questions about this CAO, you may contact Dustin Schiavo of my staff at (916) 341-6485.

Dated this 13th day of May, 2024

Kim Sellards
Branch Chief
Waste Evaluation and Enforcement Branch
Department of Resources Recycling and Recovery

**APPENDIX DOCUMENTS MAY BE
AVAILABLE THROUGH A PUBLIC
RECORDS REQUEST**