

**BEFORE THE
DEPARTMENT OF RESOURCES, RECYCLING & RECOVERY
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF:

Golden State Recycling – Alfredo Hernandez

Address: 32210 Dunlap Boulevard, Yucaipa, CA

Type of Entity: Application Denial

File No.: IH18-006-BCR

Certificate No.: CN556168

PRECEDENTIAL DECISION No.: 23-03

**Designation of decision as precedential under Government
Code Section 11425.60**

Pursuant to Government Code Section 11425.60, the Department of Resources, Recycling and Recovery hereby designates as precedential its decision, dated June 6, 2018, in the above-referenced action.

This decision is designated precedential effective September 10, 2023,
Sacramento, California.

Dated: September 10, 2023.

As approved by Rachel Machi Wagoner on September 10, 2023,
Department of Resources, Recycling & Recovery.

**STATE OF CALIFORNIA
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

IN THE MATTER OF:

File No. IH18-006-BCR

**GOLDEN STATE RECYCLING.,
CN556168;
ALFREDO HERNANDEZ,**

DECISION AND ORDER

RESPONDENT.

I. INTRODUCTION

The Division of Recycling (Division) of the Department of Resources Recycling and Recovery (Department or CalRecycle) issued a notice to Alfredo Hernandez and Golden State Recycling (Respondent) dated January 17, 2018, denying Respondent's application for certification to operate a recycling center at 32210 Dunlap Boulevard in Yucaipa, California (Subject Location).

Respondent filed a timely request for hearing on the application denial pursuant to Title 14, section 2130 of the California Code of Regulations.

A hearing was conducted on May 24, 2018, in Sacramento, California. On that date, all evidence and testimony in this matter was received into the record. The Division provided an interpreter for Spanish and English translations.

Kris G. Chisholm, Attorney, CalRecycle, appeared on behalf of the Division. Respondent appeared in pro per.

Douglas C. Jensen, Attorney III, CalRecycle, presided over the hearing under a delegation of authority from CalRecycle Director, Scott Smithline.

II. ISSUE

Whether the Division's decision to deny Respondent's application for certification to operate a recycling center shall be sustained, modified, or reversed.

III. EVIDENTIARY MATTERS

The Division presented testimony from Hailynn Moors (Moors). Moors is a Certification Specialist within the Division. Her regular job duties include review of beverage recycling center certification applications and making recommendations to approve or

1 deny applications. Moors testified regarding her review and analysis of Respondent's
2 application and her decision to deny it.

3
4 Respondent's son, Luis Hernandez, offered character testimony on behalf of
5 Respondent.

6
7 Respondent testified on his own behalf.

8
9 Division exhibits 1 - 6 were admitted without objection.

10
11 Respondent exhibit A was admitted without objection.

12 13 **IV. FINDINGS OF FACT**

14
15 Respondent was previously certified to operate a recycling center at the Subject
16 Location. That certification was revoked on November 1, 2014, for the following
17 violations of the Act and Regulations:

- 18
19 1. Respondent paid and claimed California Refund Value (CRV) on ineligible
20 out-of-state beverage containers.
- 21
22 2. Respondent falsified receipts and submitted claims for payment based in
23 whole or in part upon falsified documents.
- 24
25 3. Respondent split transactions to avoid daily load limits and reporting
26 requirements.

27
28 On October 23, 2017, Respondent submitted an application to regain his certification to
29 operate a recycling center at the Subject Location. That application was denied on
30 January 17, 2018.

31
32 The stated basis for the denial was that Respondent failed to demonstrate to the
33 satisfaction of the Division that he would operate in accordance with the Act and
34 Regulations. (Pub. Res. Code § 14538(a)(1).) The Division specifically pointed to the
35 violations underlying the November 1, 2014, revocation.

36
37 At the May 24, 2018, hearing on certification denial, Respondent acknowledged and
38 apologized for the violations that led to the certification revocation. He offered his
39 assurances that, if given a second chance, he would operate in compliance with the Act
40 and Regulations.

41 42 43 **V. CONCLUSIONS OF LAW**

44
45 The Division is charged with enforcing the California Beverage Container Recycling and
46 Litter Reduction Act (Public Resources Code section 14500 et. seq.) (Act) and related
47 regulations found at Title 14, California Code of Regulations, section 2000 et seq.

1 (Regulations). The Division is further charged with the duty of protecting the integrity of
2 the California Beverage Container Recycling Fund (Fund). (Pub. Res. Code § 14552.)
3

4 Section 14538(b)(1) of the Act requires an operator to demonstrate to the Division's
5 satisfaction that it will operate in accordance with the Act. This burden of demonstrating
6 compliance with the Act applies to applicants for certification.¹
7

8 Here, the Respondent has an operational history that includes significant violations of
9 the Act and Regulations. He acknowledges that he paid CRV on ineligible material, split
10 loads to avoid daily limits and reporting requirements, and made claims for payment
11 based on falsified receipts. Nonetheless, Respondent provides his assurances that he
12 is sorry and will change his behaviors if given a second chance at certification.
13

14 However, Respondent's word that he has changed is not enough to overcome his
15 violation history. Fabricating receipts is a very serious violation. Payments to operators
16 from the Fund are based on self-reporting. When self-reporting is falsified, the integrity
17 of the Fund is significantly damaged. Furthermore, Respondent's word cannot be
18 attributed much weight given his history of dishonesty in his dealings with the
19 Department. The Respondent has not met his burden of demonstrating compliance.
20

21 An additional basis for denial is provided by Public Resources Code section 14538(b)(2)
22 which provides that the following condition be met for certification:
23

24 "If one or more certified entities have operated at the same location within the past five
25 years, the operations at the location of the recycling center exhibit, to the satisfaction of
26 the department, a pattern of operation in compliance with the requirements of this
27 division and regulations adopted pursuant to this division." (Pub. Res. Code §
28 14538(b)(2).)
29

30 Here, the Subject Location has a non-compliant operational history within the past five
31 years-specifically, the violations underlying Respondent's revocation. Such an
32 operational history precludes any certification being granted for the Subject Location
33 until the expiration of the five-year period.
34
35
36
37
38
39
40
41
42

43 ¹ Absent a statute or other authority fixing a different standard, the burden of proof requires proof by a
44 preponderance of the evidence. (Evidence Code § 115.) Except as otherwise provided by law, a party
45 has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for
46 relief or defense that he is asserting. (Evid. Code § 500.) Therefore, applicants for certification must
47 meet the burden of proof by a preponderance of the evidence.
48

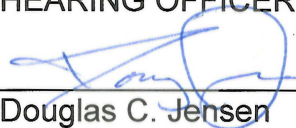
1 **VI. DECISION AND ORDER**

2
3 The Division's decision to deny Respondent's application for certification to run a
4 recycling center is sustained.
5

6
7
8 **IT IS SO ORDERED.**

9
10
11
12 DATED: 6/6/18

HEARING OFFICER



Douglas C. Jensen
Attorney III
Department of Resources Recycling
and Recovery (CalRecycle)



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

LEGAL OFFICE

801 K STREET • MS 19-03 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 327-0089 • WEB SITE WWW.CALRECYCLE.CA.GOV

PROOF OF SERVICE

I, Dennet J. McFarlane, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to this action. My place of employment and business is as in the letterhead.

On June 6th 2018, I served the attached for entitled action:

Decision and Order in The Matter of Golden State Recycling, CalRecycle Case No. IH18-006-BCR to:

Alfredo Hernandez
Golden State Recycling Inc.
32210 Dunlap Boulevard
Yucaipa, CA 92399
goldenrecyclinginc@yahoo.com

Kris Chisholm, Senior Staff Counsel
CalRecycle - Legal Office
801 K Street, MS 19-03
Sacramento, CA 95814
kris.chisholm@calrecycle.ca.gov

By:

- First Class Mail** - In a sealed envelope, with postage thereon fully prepaid, in the United States.
- Certified Mail** - In a sealed envelope, return receipt requested with Postage thereon fully prepaid, in the United States mail.
- Electronic Service** - Sent to the email addresses listed above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Sacramento, California, on the 6th

(Signature)