

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

**IN THE MATTER OF:**

Jiminez Recycling – Sally Gonzalez

Address: 731 34<sup>th</sup> St, Bakersfield, CA and 401 Brundage Ln, Bakersfield, CA

Type of Entity: Application Denial

**File No.: IH22-012-BCR**

**Certificate Nos.: CN78878 and CN787942**

**PRECEDENTIAL DECISION No.: 23-11**

**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 January 10, 2023, 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.

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

**IN THE MATTER OF:** ) **File No. IH22-012-BCR**  
)  
**JIMINEZ RECYCLING CENTER** )  
**CN788778, CN787942** )  
) **DECISION AND ORDER**  
**SALLY GONZALEZ** )  
)  
**RESPONDENT.** )  
)

**I. INTRODUCTION**

The Division of Recycling (Division) of the Department of Resources Recycling and Recovery (Department or CalRecycle) issued a notice to Sally Gonzalez and Jimenez Recycling Center (Respondent) dated August 23, 2022, denying Respondent's application for certification to operate a recycling center at 731 34<sup>th</sup> Street in Bakersfield, California (Case No. 788778) and 401 Brundage Lane in Bakersfield, California (Case No. 787942).

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

A hearing was conducted December 1, 2022, in Sacramento, California via video-conferencing. On those dates, all evidence and testimony in this matter was received into the record.

Jeffrey Diamond, Senior Staff Counsel, CalRecycle, appeared on behalf of the Division. Sally Gonzalez appeared on behalf of Respondent.

Douglas C. Jensen, Attorney IV, CalRecycle, presided over the hearing under a delegation of authority from CalRecycle Director, Rachel Machi Wagoner.

**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 Shellie Elrod (Elrod), a manager in the Division's Certification Unit. Elrod trains and supervises a team responsible for reviewing certification applications. Elrod testified regarding Gonzalez's certification history and an application interview with Gonzalez she conducted on June 28, 2022.

1 The Division presented testimony from Edgar Ponce (Ponce), associate management  
2 auditor for the Division. Ponce inspects recycling centers and their records for  
3 compliance with the Act and Regulations. He testified regarding an October 28, 2021,  
4 inspection he conducted of Jiminez Recycling located in Bellflower, California.

5 The Division presented testimony from Lyanna Murillo (Murillo), a supervisor in the  
6 certification unit. Murillo testified regarding a November 19, 2021, findings letter mailed  
7 to Gonzalez.

8 The Division presented testimony from Gerardo Lopez (Lopez), an associate  
9 governmental analyst in the certification unit. Lopez's duties include reviewing  
10 applications for certification to operate recycling centers. He testified regarding his  
11 review of Gonzalez's applications and his communications with Gonzalez.

12  
13 Division Exhibit Numbers 1—15 were admitted without objection.

#### 14 15 **IV. FINDINGS OF FACT**

16  
17 Gonzalez was certified to operate a recycling center at 9111 Artesia Boulevard in  
18 Bellflower, California (Artesia Center) on September 25, 2021. As a condition of  
19 certification, Gonzalez agreed to provide the Division with the name of any person  
20 participating in the operations of the Artesia Center.

21  
22 On October 25, 2021, Gonzalez admitted to the Division that she hired an attendant for  
23 the Artesia Center without providing the required notice to the Division and that the  
24 attendant committed fraud by adding weight to aluminum material.

25  
26 On October 28, 2021, the Division conducted an inspection of the Artesia Center. The  
27 Division found that its scale was not sealed by local county Weights and Measures. On  
28 November 19, 2021, the Division emailed Gonzalez informing her of its findings and  
29 instructing her to bring Artesia Center into compliance by having her scale properly  
30 sealed.

31  
32 On March 23, 2022, the Division received Gonzalez's application for certification to  
33 operate a recycling center at 401 Brundage Lane in Bakersfield, California.

34  
35 On April 6, 2022, the Division received Gonzalez's request to decertify the Artesia  
36 Center. The request indicated that the Artesia Center's last day of operation was April  
37 3, 2022, and the stated reason for decertification was "[t]he City Hall didn't give  
38 permission". Pursuant to the request, the Division decertified the Artesia Center  
39 effective April 3, 2022.

40  
41 On April 13, 2022, the Division received Gonzalez's application for certification to  
42 operate a recycling center at 731 34<sup>th</sup> Street in Bakersfield, California.

43  
44 The Division conducted an application interview with Gonzalez on June 28, 2022.  
45 Gonzalez indicated that her proposed recycling centers would each operate seven days  
46 a week. Gonzalez further indicated that her home was an approximate two-hour drive  
47 from the proposed centers. She did not know the amount of rent she would be required  
48 to pay to lease the proposed locations or which processor she would use in connection  
49 with her proposed operations. Gonzalez further admitted that she does not possess a  
50 drivers' license.



1 On August 23, 2022, the Division denied Gonzalez's applications to operate recycling  
2 centers at 731 34<sup>th</sup> Street and 401 Brundage Lane "based on your failure to  
3 demonstrate to our satisfaction that you will operate in accordance with the Act and  
4 Regulations." The denial specifically cites Respondent's voluntary decertification of the  
5 Artesia Center, Gonzalez's failure to provide notice that a new attendant was involved in  
6 its operations, and Gonzalez's failure to have the Artesia Center's scale sealed by local  
7 county Weights and Measures.

## 8 **V. CONCLUSIONS OF LAW**

9  
10 The Division is charged with enforcing the California Beverage Container Recycling and  
11 Litter Reduction Act (Public Resources Code (PRC) section 14500 et. seq.) (Act) and  
12 related regulations found at 14 CCR section 2000 et seq (Regulations). The Division is  
13 further charged with the duty of protecting the integrity of the California Beverage  
14 Container Recycling Fund (Fund). (PRC section 14552.)

15  
16 The Division is required to review the certification history of applicants for certification to  
17 operate a recycling center. (14 CCR 2030(e).) Where that history discloses  
18 decertification of a recycling center within the past two-year period, the Division may  
19 deny the application. (14 CCR 2030(g)(5).) The Division is further authorized to deny  
20 an application where the history demonstrates a pattern of operation in conflict with the  
21 requirements of the Act and Regulations. (14 CCR 2030(g)(6).)

22  
23 To be certified by the Department, the operator of a recycling center must demonstrate  
24 to the Division's satisfaction that it will operate in accordance with the Act. (PRC section  
25 14538(b)(1).) This burden of demonstrating compliance with the Act applies to  
26 applicants for certification and must be met by a preponderance of the evidence.  
27 (Evidence Code sections 115 and 500.)

28 Here, the Division cites three reasons for the application denials: 1) decertification of the  
29 Artesia Center on April 3, 2022; 2) failure to provide notice as agreed to as a condition  
30 of certification; and, 3) failure to have the Artesia Center's scale properly sealed.

31  
32 Respondent does not dispute the bases of the denial; rather, she offers an apology and  
33 an assurance that she will not repeat her mistakes.

34 Respondent's apology and assurances, while apparently sincere, do not establish by a  
35 preponderance of the evidence that Respondent will operate in accordance with the Act.  
36 The Division, on the other hand, has established by a preponderance of the evidence  
37 that Respondent is unlikely to operate in compliance with the Act. It properly points to  
38 Respondent's failure to abide by her certification agreement and her failure to properly  
39 seal her scale. The Division further raises concerns regarding Respondent's ability to  
40 travel considerable distances from her home to her proposed centers seven days a  
41 week and without a driver's license. During the application interview and again at  
42 hearing, Respondent was unable to articulate a clear plan to address the Division's  
43 legitimate concerns in this regard.

44 An additional ground for the application denials stems from Respondent's history of  
45 decertification. Respondent voluntarily decertified the Artesia Center on April 3, 2022.  
46 As this decertification within two years of Respondent's applications, the Division is  
47 authorized to deny her applications (14 CCR 2030(g)(5).) The fact that Respondent's  
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1 decertification was voluntary, and not based on any disciplinary action is irrelevant. The  
2 law does not require that the decertification be based upon compliance issues.


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4 **VI. DECISION AND ORDER**

5  
6 The Division's decision to deny Respondent's application for certification to run a  
7 recycling center is sustained.

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10 **IT IS SO ORDERED.**

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14 DATED: 1/10/23

HEARING OFFICER

  
\_\_\_\_\_  
Douglas C. Jensen

Attorney IV

Department of Resources Recycling  
and Recovery (CalRecycle)