

17th Technical Training Series



April 3-6, 2017 · Long Beach Hyatt
200 South Pine Avenue · Long Beach, California, 90802



Waste Tire Case Studies

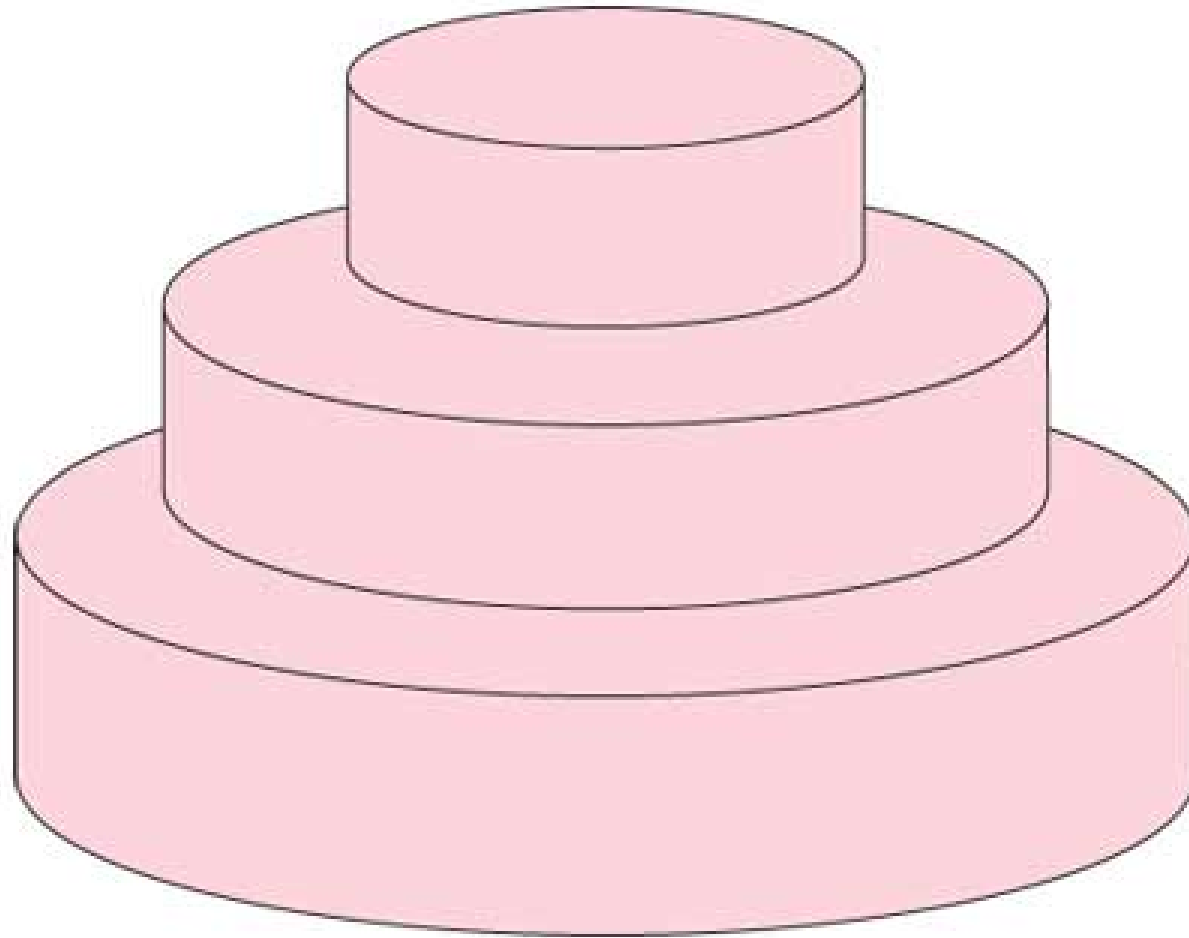
2017 Technical Training Series

Presenter: Bill Albert

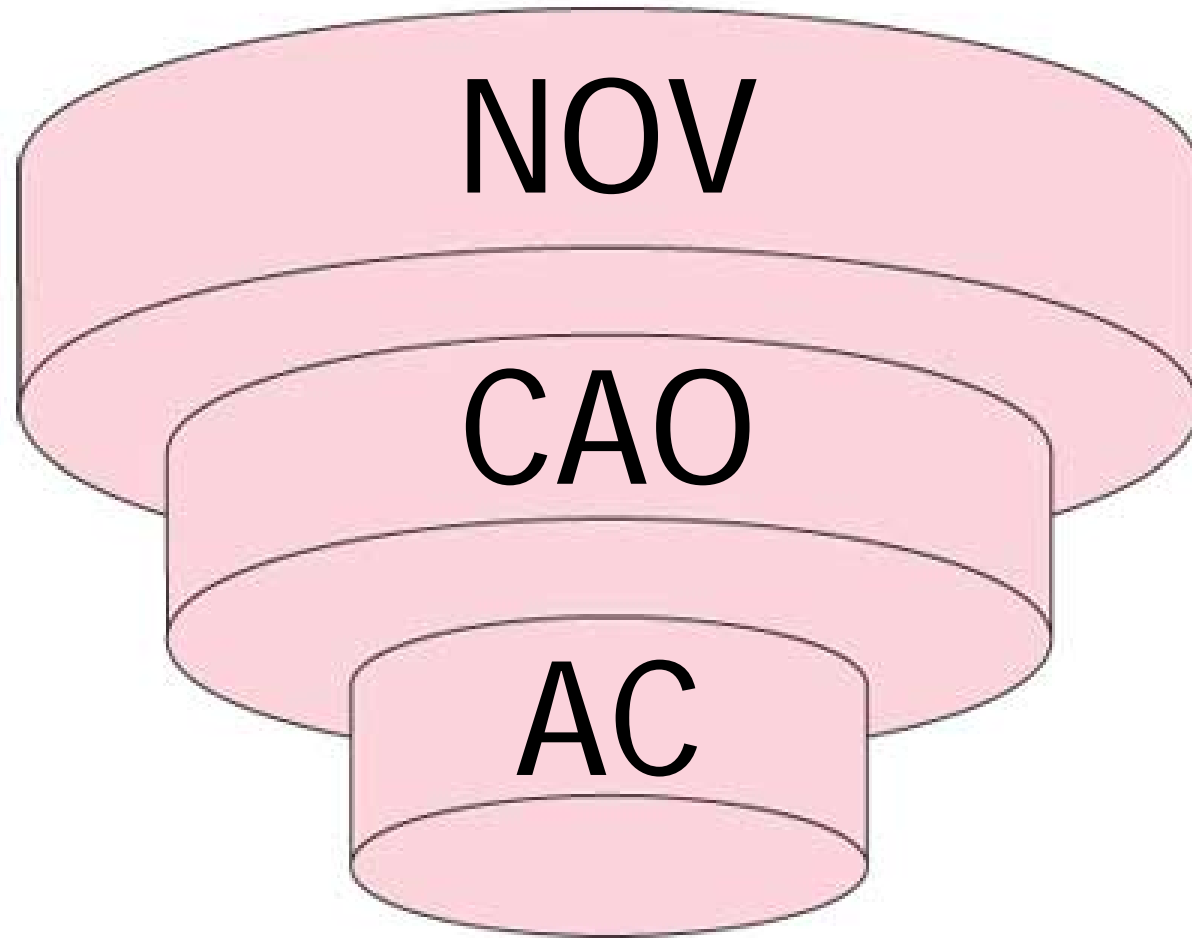
Goal

- ▶ "... and now you know the rest of the story."
 - ▶ *Paul Harvey*

Enforcement Process



Enforcement Process



Inspection Stats

Year	Total	CalRecycle	Grantees	NOVs	NOVs % of Total	Referred
2012	21,502	2,919	18,583	996	4.6	93
2013	21,608	1,832	19,776	872	4.0	34
2014	20,466	1,863	18,603	789	3.9	61
2015	21,192	1,843	19,349	874	4.1	47
2016	17,697	2,281	15,416	674	3.8	44

Enforcement Stats

	NOV	CAO	ADC	SPL
2012	996	11	4	82
2013	872	3	5	49
2014	789	3	6	51
2015	874	5	4	24
2016	674	3	8	33

R & L Recycle

- ▶ Story begins less than 3 years ago...(2014)
- ▶ Lisa and Randy Vosters
- ▶ 1596 S 7th St, Suite C, San Jose, CA
- ▶ Originally partners in **San Jose Tire Recycle**
 - ▶ With Tom & Hanh Nguyen
 - ▶ Used tire dealer/Baler
- ▶ San Jose Tire Recycle inspected 3 times:
 - ▶ 12/9/13—tire count 3,300 (NOV) “In process of filing for permit”
 - ▶ 4/24/14—tire count 12,464 (164 bales) (Referred)
 - ▶ 5/28/14—tire count 0 (Closed)—R&L takes over







A New TPID is Born

- ▶ Early May 2014—Vosters opt to sever ties with the Nguyens & start their own “used tire” tire business.
- ▶ Issued TPID **1787089**

Randy Vosters
1596 S 7th St, Suite C
San Jose, CA 95112
(408) 594-0561

I, Randy Vosters, declare that I am no longer in business with Hanh Nguyen of San Jose Tire Recycle. San Jose Tire Recycle is no longer conducting business at 1596 S. 7th Street, San Jose, CA 95112-5929. I am starting my own used tire business called R&L RECYCLE. I take full responsibility of the tires located at 1596 S. 7th Street, San Jose, CA 95112-5929 which includes the tires counted on April 24, 2014, during a re-inspection conducted by CalRecycle and all tires on site after April 24, 2014.



Randy Vosters, Owner

5-2-14
Date

Inspection Search

[Search for Invalid Inspections](#)

Home

Search Businesses

Search Inspections

Search STLs

Search Grantees

Search Complaints

Request Processing

System Admin

Business TPID:

Business Name:

Status: Draft Completed Submitted Approved

Form Number:

Inspection Type:

Referral Type:

Grantee:

Inspector:

Inspection Date: From: To:

Grant Cycle:

City:

County:

Tire Count: Min: Max:

Enforcement Status:

Show Incomplete Surveys Only

Permitted Status:

Show Incomplete Inspections Only

- Home
- Search Businesses
- Search Inspections
- Search CTLs
- Search Grantees
- Search Complaints
- Request Processing
- System Admin

Home > Search Inspections

Inspection Search

[Search for Invalid Inspections](#)

Business TPID:

Business Name:

Status: Draft Completed Submitted Approved

Form Number:

Inspection Type:

Referral Type:

Grantee:

Inspector:

Inspection Date: From: To:

Grant Cycle:

City:

County:

Tire Count: Min: Max:

Enforcement Status:

Show Incomplete Surveys Only

Permitted Status:

Show Incomplete Inspections Only

Reports

[Run Detail Report](#)

8 inspections over 3 years

FORM NUMBER	SURVEY	INSPECTION	COMMENTS	STATUS	BUSINESS TPID	BUSINESS NAME	DATE ↓	GRANTEE	CITY	COUNTY NAME
IW-1038959	View	Add	View	Approved	1787089	R & L Recycle, Inc.	5/17/2016	CalRecycle	San Jose	Santa Clara
IW-1034844	View	View	View	Approved	1787089	R & L Recycle, Inc.	2/17/2016	CalRecycle	San Jose	Santa Clara
IW-1032943	View	View	View	Approved	1787089	R & L Recycle, Inc.	1/5/2016	CalRecycle	San Jose	Santa Clara
IW-1030609	View	View	View	Approved	1787089	R & L Recycle, Inc.	11/9/2015	CalRecycle	San Jose	Santa Clara
IW-1028518	View	View	View	Approved	1787089	R & L Recycle, Inc.	9/23/2015	CalRecycle	San Jose	Santa Clara
IW-1022222	View	View	View	Approved	1787089	R & L Recycle, Inc.	4/16/2015	CalRecycle	San Jose	Santa Clara
IW-1011427	View	Add	Add	Approved	1787089	R & L Recycle, Inc.	5/28/2014	CalRecycle	San Jose	Santa Clara
IW-1011047	View	View	View	Approved	1787089	R & L Recycle, Inc.	5/8/2014	CalRecycle	San Jose	Santa Clara

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Inspection History

Date	Tire Count	Compliance Deadline	Type	Status
5/8/2014	9,811	5/22/2014	Referral	Extension
5/28/2014	600		Re-inspection	In Compliance - No Violations
4/16/2015	1,480	5/7/2015	Referral	Notice of Violation
9/23/2015	140,699	11/6/2015	Re-inspection	Notice of Violation
11/9/2015	96,013		Re-inspection	Referred / CalRecycle Enforcement
1/5/2016	87,464		Re-inspection	Referred / CalRecycle Enforcement
2/17/2016	83,082		Re-inspection	Referred / CalRecycle Enforcement
5/17/2016	0		Referral	In Compliance - No Violations

Inspection (5/8/14)

- ▶ 1st inspection under new (unpermitted) TPID
- ▶ Joint inspection w/ CalRecycle & TEA inspectors
- ▶ **Inspection type - Referral**
 - ▶ **Follow-up on a complaint**
- ▶ Identified as "Used Tire Dealer" as Business Type
- ▶ Waste tire count 9,811 = VIOLATION
- ▶ Tires on rims (**no other SMS violations noted**)
- ▶ CDD 5/22/14

Inspection (5/28/14)

- ▶ Re-inspected to verify NOV violations corrected.
- ▶ Operator states “We’re no longer in the baling business”
- ▶ Waste tire count 600 (8 bales) = IN COMPLIANCE (???)
- ▶ **No mention of tires on rims violation**

Minor WTF Permit

- ▶ Draft permit application submitted.
- ▶ Many deficiencies notes & relayed to applicants (10/2/14).
- ▶ No follow up from operator.

Streamlined Penalty

- ▶ Hauler registration originally issued on 5/30/14
 - ▶ Reissued in 2015 and 2016
- ▶ SPL (2/12/15) --\$2,500 (vs. potential \$9,950)
 - ▶ Hauler manifest violations
- ▶ SPL rescinded (5/26/15)—
 - ▶ R & L were creating Receipt C with the total of Receipts A & B which caused the higher than 499 WT loads.

Inspection (4/16/15)

- ▶ CalRecycle inspected in response to **several complaints** about them being over their allowable storage limit.
- ▶ Still identified as “Used Tire Dealer” & Baler under Business Type
 - ▶ Permit Exclusion Form signed by operator claiming Used Tire Dealer status
- ▶ Waste tire count 1,480 = IN COMPLIANCE
- ▶ Cited violation for using unregistered hauler to remove >25 tons of WT
- ▶ Operator working with City to obtain local approvals (CUP, etc.) for MWTF permit



Google Earth (March 2015)



Streamlined Penalty

- ▶ SPL (7/10/15) --\$300 (vs. potential \$1,500)
 - ▶ Contracting with an unregistered hauler
 - ▶ Failure to retain completed CTL at business for 3 years
- ▶ Penalty paid & final Streamlined Stipulated Decision issued (9/3/15)

Inspection (9/23/15)

- ▶ Waste tire count 140,699 = NOV
- ▶ 10K+ indoors; 130K+ outdoors (mostly 1,500+ bales)





Inspection (9/23/15)

- ▶ Waste tire count 140,699
- ▶ CDD 11/6/15
- ▶ Following 4/16/15 inspection, **re-evaluated claim to used tire dealer exclusion** -- unable to verify meeting requirements of 14 CCR 17225.820
 - ▶ Operating under the terms and conditions of a local use permit, business license or other required local approval.
 - ▶ **Its primary purpose is to sell used tires for profit.**
 - ▶ **Bales everywhere and majority of CTLs to Port.**
 - ▶ **Result—R & L is an ordinary, unpermitted WT facility.**

Inspection (9/23/15)

- ▶ Implemented undercover CHP surveillance (2 shifts for 2 weeks)
 - ▶ Monitor outflows & any additional inflows.
 - ▶ They continued picking up waste tires from customers.
 - ▶ No “hidey hole” discovered.
- ▶ **“Everything is under control....will be in compliance by CDD”**

Fire Department Inspection (9/25/15)

- ▶ Identified several fire code violations incl. tire pile size & volume, and water supply requirements.
- ▶ Admitted went easy on them, “give them the benefit of the doubt” more violations sighted than cited.”

Pre-CAO Letter(10/14/15)

- ▶ Pre-CAO letter to property owner—new approach added to reach out to property owners before CAO
 - ▶ Save staff time & expedite compliance
 - ▶ Usually first time property owner/manager is aware of tire issues & their potential liability
- ▶ R & L property owned by family trust
- ▶ Property owner got involved in a big way
 - ▶ Kept the pressure up on operators
 - ▶ Resulted in R & L's lease not getting renewed


DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

October 14, 2015

 Certified Number:
 7014 3490 0001 7726 7291

 Michael J. Kelly, Jr.
 Agent for Service of Process
 Ernest E. Pestana, Inc.
 360 Kiely Blvd, Ste 240
 San Jose CA 95129-1300

 Subject: Violation of California Waste Tire Laws— R&L Recycle (TPID 1787089)

Dear Mr. Kelly,

The Department of Resources Recycling and Recovery (CalRecycle) has determined that you are the property owner of the parcel(s) located at 1596 South 7th Street, San Jose, CA (Assessor Parcel Number 477-09-018) upon which a facility known as R & L Recycle is located. R & L Recycle is currently in violation of California waste tire laws and regulations. By virtue of the amount of waste tires currently being stored, this site meets the definition of a major waste tire facility as that term is defined by PRC section 42808. A major waste tire facility is "a waste tire facility where, at any time, 5,000 or more waste tires are or will be stored, stockpiled, accumulated, or discarded."

This site is currently unpermitted and is legally allowed to store up to 499 waste tires in accordance with California waste tire laws.

- On September 23, 2015, CalRecycle inspected this site, as documented in Inspection Report IW-1028518 (attached) and determined that approximately 140,699 waste tires were being stored on site. CalRecycle issued a Notice of Violation to the Operator.

Under California law, CalRecycle is authorized to act as the enforcement agency for waste tire facilities, pursuant to Public Resources Code (PRC) section 42800 et seq., and is the enforcement agency for this waste tire site. 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).

If the current waste tire violations are not corrected CalRecycle will prepare and serve a Cleanup and Abatement Order (CAO) on both the Property Owner and the Operator. Once a CAO is issued, if the Property Owner/and or Operator fails to complete and comply with the actions ordered by the CAO by the specified dates, CalRecycle may petition the superior court for injunctive relief to enforce the CAO, and for civil penalties in the amount of not less than \$500 and up to \$10,000 for each violation of a separate provision or, for continuing violations, for each day the violation continues, pursuant to PRC sections 42845, 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.

If the Operator and/or Property Owner fail to remove the tires as required by the CAO 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.

The Operator of R & L Recycle has been advised of these violations and instructed to take immediate action to reduce the waste tires on site to 499 or below.

A re-inspection of the property is scheduled to take place on or around **November 9, 2015**.

CalRecycle staff is available to assist you with specific questions or concerns you may have regarding this situation. Please contact Gerri Stryker, Supervisor of the Central Waste Tire Facility Compliance Unit, at (916) 341-6336 should you have any question.

Sincerely,

 Georgianne Turner
 Chief, Waste Evaluation and Enforcement Branch
 Waste Permitting, Compliance, and Mitigation Division

Enclosures

cc:

 Nathan Guido, Manager
 Pestana Properties
 84 W. Santa Clara Street
 San Jose, CA 95112

 Nathan Guido, Manager
 Pestana Properties
 1431 Atteberry Lane
 San Jose, Ca 95131

 Linda and Randy Vosters
 R & L Recycle
 1596 S. 7th Street
 San Jose, CA 95112-5929

Pre-CAO Letter

- ▶ There's a problem.
- ▶ You're jointly liable for fixing the problem.
- ▶ If the problem doesn't get fixed you:
 - ▶ Will be issued a Cleanup and Abatement Order.
 - ▶ May be liable for administrative penalties.
- ▶ If the State has to clean up the problem, you'll be liable for the clean-up costs.
- ▶ The State may lien your property to get reimbursed for the clean-up costs.
- ▶ Timeline within which corrective measures must be taken.
- ▶ Whom to contact for more information.

Inspection (11/9/15)

- ▶ Re-inspection from 9/23/15 NOV
- ▶ Waste tire count 96,013
- ▶ Still 1100+ bales
- ▶ Referred
- ▶ “Port closures, disruptions in Asian markets, hauler to Port of Oakland ill, etc.”

Same Story, Different Day



Cleanup & Abatement Order (CAO)

- ▶ CAO issued 12/4/15 (15 days compliance deadline)
- ▶ Required removal of all waste or used tires
 - ▶ Applies to unpermitted facilities per AB 1647 (2012)
 - ▶ Maintain at zero for 45 days
- ▶ Use a registered hauler to remove WTs
- ▶ CalRecycle to approve destinations
- ▶ CTLs to be submitted w/in 30 days
- ▶ Reimburse for costs of extra inspections
- ▶ Compliance extension sought by Operator
 - ▶ Request denied 12/22/15 due to lack of progress in removing WTs

Inspection (1/5/16)

- ▶ CAO compliance inspection (30 days after CAO was issued)
- ▶ **Waste tire count 87,464**
- ▶ Only 10% reduction since 11/19/15 inspection

Operator said Shredding is the Answer

- ▶ Committed to **travel to Wisconsin** to obtain a waste tire shredder and haul it back to R & L's facility.
- ▶ Shredder could **process approximately 300 tires per hour**, and that he planned to shred in 12-hour shifts, six days a week.
- ▶ Shredded material would **be used as Alternative Daily Cover at Kirby Canyon Landfill**.
- ▶ **4 to 6 truck loads per day = approx. 5,000 shredded tires...**
- ▶ **R & L agreed to a have zero tire count by 2/1/16.**
- ▶ Other possibles:
 - ▶ Lehigh Southwest Cement (Redding)
 - ▶ Pyrolysis facility in SoCal
 - ▶ Foreign buyers interested in their shreds

Inspection (2/17/16)

- ▶ CAO compliance re-inspection
- ▶ Waste tire count 83,082
- ▶ New **mobile shredder** has been installed and begun shredding WTs



- ▶ No shredded tire material has left R & L yet because **R&L does not possess a loader** that will place the tire shreds in their transporting truck.



Administrative Complaint (AC)

- ▶ Two ACs were issued 4/19/16
- ▶ AC#1 for waste tire storage administrative penalties
 - ▶ Issued against both R & L and the property owner.
 - ▶ Seeking \$985,500 in penalties
 - ▶ 13 counts – delivering to unauthorized location (their facility)
 - ▶ 148 counts—creating an unpermitted major WT facility (9/23/15 to 2/17/16)

Administrative Complaint (AC)

- ▶ AC#2 for revocation of hauler registration & hauler administrative penalties
 - ▶ Issued against just R & L.
 - ▶ Seeking \$93,500 in penalties.
 - ▶ 13 counts delivering to unauthorized location (their facility).
 - ▶ 109 counts of manifesting violations (CTL errors or omissions).
 - ▶ Seeking hauler registration revocation for 3 yrs. (due to 4 or more violations of PRC chapters 16 or 19 within a one-year period).

Operator's Declaration

"05/05/16

To Whom it May Concern,

A full clean up and abatement of the property located at 1596 S. 7th St., San Jose, Ca. 95112 where R&L Recycle Inc. had previously been doing business under the TPID 1787089-01 **was completed 05/04/16**. We would like to request an inspection of the premises ...

Thank you for your time,

Lisa and Randy Vosters

R & L Recycle Inc. "

Inspection (5/17/16)

- ▶ CAO compliance re-inspection
- ▶ Waste tire count **ZERO**
- ▶ CTLs document loads to Port of Oakland (SSA Terminals)





Comprehensive Trip Log Number: 5581826 -- A

Load Information: Pick Up Delivery

Facility Tire Program ID: 1787089-0

Site Suffix: 0

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/21/16

Facility Telephone Number: 408-612169

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: R&L RECYCLE INC.

Name: 1596 S. 7TH ST. BLDG. C

City: SAN JOSE, CA. 95112

Stamp: (408) 612-1698

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0292

Weight in Tons: 24.50

Initials: [Signature]

Comprehensive Trip Log Number: 5581827 -- A

Load Information: Pick Up Delivery

Facility Tire Program ID: 1787089-0

Site Suffix: 0

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/21/16

Facility Telephone Number: 408-612169

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: R&L RECYCLE INC.

Name: 1596 S. 7TH ST. BLDG. C

City: SAN JOSE, CA. 95112

Stamp: (408) 612-1698

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0292

Weight in Tons: 25.00

Initials: [Signature]

Comprehensive Trip Log Number: 5581831 -- A

Load Information: Pick Up Delivery

Facility Tire Program ID: 1787089-0

Site Suffix: 0

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/21/16

Facility Telephone Number: 408-612169

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: R&L RECYCLE INC.

Name: 1596 S. 7TH ST. BLDG. C

City: SAN JOSE, CA. 95112

Stamp: (408) 612-1698

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0292

Weight in Tons: 25.00

Initials: [Signature]

Comprehensive Trip Log Number: 5581824 -- B

Load Information: Pick Up Delivery

Facility Tire Program ID: 1559086-01

Site Suffix: 01

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/22/16

Facility Telephone Number: 510-2384400

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: SSA TERMINAL

Name: 1717 Middle Harbor Rd

City: Hayward CA 94545

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0292

Weight in Tons: 25.00

Initials: EC

Comprehensive Trip Log Number: 5581825 -- B

Load Information: Pick Up Delivery

Facility Tire Program ID: 1559086-01

Site Suffix: 01

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/22/16

Facility Telephone Number: 510-2384400

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: SSA TERMINAL

Name: 1717 Middle Harbor Rd

City: Hayward CA 94545

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0292

Weight in Tons: 24.50

Initials: EC

Comprehensive Trip Log Number: 5581839 -- B

Load Information: Pick Up Delivery

Facility Tire Program ID: 1559086-01

Site Suffix: 01

Hauler Tire Program ID / Site Suffix: 1853751 - 01

DATE: 04/23/16

Facility Telephone Number: 510-2384400

TYPE: Whole Tire Count Weight in Lbs.

Volume Cubic Yds. Weight in Tons

Facility Business: SSA Terminal

Name: 1717 Middle Harbor Rd

City: Oakland CA 94607

Hauler Name: TONY'S TRUCKING

Hauler Telephone Number: 510.460.0290

Weight in Tons: 25.00

Initials: [Signature]

Settlement

- ▶ Negotiations with operator & property owner.
- ▶ Hearing scheduled for August 2-4, 2016
- ▶ Parties subsequently agree on stipulated settlement terms.
- ▶ Property owner removed (dismissed w/o prejudice) from AC (7/20/15) because of:
 - ▶ Settlement with R & L
 - ▶ Complete remediation of WTs
 - ▶ Their good-faith efforts

Final Stipulated Decision

- ▶ Administrative Decision issued (8/31/16)
- ▶ Incorporates stipulated settlement terms agreed to between the parties.
- ▶ Total penalty remains \$1.079M.
 - ▶ \$50,000 to be paid in installments (\$200/\$1,000/\$3,000).
 - ▶ Reduced penalty payment during 6-month hauler suspension.
 - ▶ \$1.029M held in abeyance for 5 years.
 - ▶ 6 month suspension of hauler registration (Jan. 1 to July 1, 2017).
 - ▶ Required to enroll in & submit CTL data using EDT.
 - ▶ Don't create another WTF w/o required permit

Epilogue

- ▶ Applied for EDT (10/7/16) -late but close; approved that day
- ▶ Vacated (lease not renewed).
- ▶ Moved next door occupying part of railroad right-of-way.
- ▶ Create new TPID.
- ▶ Able to contract with other haulers to keep servicing their clients during suspension.
 - ▶ Randy Vosters hired as a driver.
- ▶ Serving their hauler suspension 1/1/17 through 7/1/17.
- ▶ Contacted by operator (early March) wanting to know how/if:
 - ▶ OK to submit penalty payments in advance?
 - ▶ Can pay more than minimum required?
- ▶ Everyone lived happily ever after...



Questions?

JTR (formerly Jack's Tire Recycling)

- ▶ 11365 Pendleton St.
- ▶ Sun Valley, CA
- ▶ Hauler since 2002
- ▶ Minor waste tire permit



Baler's Business Model

- ▶ Accepts tires from registered haulers
- ▶ Uses baler to compress 60-80 tires into 1500 lb bale
- ▶ Stacks & stores bales
- ▶ Places in sea container and ships to Port of L.A.
- ▶ Overseas buyer



Problems with Baler Business Model

- ▶ Subject to various pitfalls
- ▶ Closure of border in country of import (“Green Fence”)
- ▶ Port closures (e.g., labor actions, major injuries)
- ▶ Port-certified trucks not available
- ▶ Equipment break downs
- ▶ Buyers market
- ▶ My dog ate my baler...



Jack's Tire Recycling

- ▶ Too many tires being stored
- ▶ Facilities do not close until they are out of storage space
- ▶ Accepting tires = cash flow and retains customer base
- ▶ Storage limit in permit is fixed (no spandex)
- ▶ Minor permit limit 4,999 generally unsustainable



Jack's Tire Recycling

- ▶ TEA inspector discovers 77,000 plus baled tires stored near closed landfill (Lopez Canyon).
- ▶ Admin. Complaint for hauler admin. penalties issued:
 - ▶ Transporting waste tires to unauthorized location (Lopez Canyon) & failing to manifest those loads
 - ▶ Contracting with unregistered hauler (shipments to port)



Jack's Tire Recycling

- ▶ Stipulated Admin. Decision issued 6/17/14
 - ▶ \$146,000 admin. penalty
 - ▶ \$17,000 to be paid
 - ▶ \$129,000 held in abeyance for 3 years
 - ▶ Reduce storage to 4,999 or less w/in 30 days
 - ▶ Submit major WTFP application w/in 6 months
 - ▶ Submit CTL data via EDT for 1 year



Jack's Tire Recycling

- ▶ Subsequent inspections show still exceeding minor permit limit (as high as ~150,000 waste tires)
- ▶ 4/10/15--Pre-CAO letter to property owner issued
- ▶ **Property owner gets involved--forces removal**
- ▶ 5/11/15--Inspection documents in compliance (4,300 tires)
- ▶ Operator evicted--90 days



Hauler Registration

- ▶ October 2015--Jack's applies for renewal of its waste tire hauler registration
- ▶ November 2015--CalRecycle denies hauler registration for 5 years starting January 2016
- ▶ Based on PRC 42960(a):
 - ▶ Hauler previously fined pursuant to Chapter 16
 - ▶ Hauler commits 4 or more violations of hauler laws
- ▶ CTLs document 74 violations of delivering waste tires to unpermitted major waste tire facility (his own facility)

A New Beginning

- ▶ Operator abandons (evicted from) Pendleton St. location
- ▶ 11/16/15—CalRecycle inspection confirms zero tire count & TPID closed
 - ▶ Minor permit becomes invalid
- ▶ Establishes new location 2 miles away called “JTR”
- ▶ 11/18/15 letter from Jack’s attorney proposes “fresh start with a new plan” in the new location
- ▶ December 2015—meeting with operator



Permit Application Denied

- ▶ 4/4/16—Operator applies for **major waste tire facility permit (WTFP)** at new location
- ▶ 4/22/16—New (unpermitted) facility inspected & found to be in compliance (<500 tires)
- ▶ 4/29/16—CalRecycle rejects application package due to deficiencies
 - ▶ Letter informs JTR that if they reapply... **“CalRecycle highly likely to deny major WTFP due to prior, chronic noncompliance with waste tire laws & regulations.”**
- ▶ 5/13/16—revised application package received. With 6/5/16 amendments, **accepted as “complete and correct” on 6/10/16**

Permit Application Denied

- ▶ 10/18/16—CalRecycle issues Statement of Issues (rationale) for denying application for major WTFP
 - ▶ Based on violation of order in previous Admin. Decision issued 6/17/14 to Jack Oganian for Jack's Tire Recycling at Pendleton Street address in Sun Valley
- ▶ PRC 42843(a)(1) and (a)(2), "...Department may revoke, suspend, or deny a waste tire facility permit for a period of up to three years..."
 - ▶ (2) The operator of the waste tire facility, at any time during the previous three years, fails to comply with an order..."

Resolution

- ▶ Admin. hearing requested & scheduled for 1/19/17
- ▶ Negotiations between CalRecycle and JTR
- ▶ Combined stipulated agreement negotiated and signed by the parties effective 1/30/17
- ▶ 2/1/17—Stipulated Admin. Decision issued to resolve:
 - ▶ Major WTFP denial
 - ▶ Hauler registration denial
 - ▶ Hauler admin. penalties

Resolution

Admin. penalty of \$129,000 (penalty held in abeyance from violated June 2014 Stipulated Admin. Decision)

- ▶ \$13,000 w/in 60 days; rest in graduated installments
- ▶ Hauler registration denied for 2 years
 - ▶ Credit for 2016; can apply for 2018 hauler registration
- ▶ Participate in EDT for 12 mos. once hauler registration renewed
- ▶ Major WTFP denied through 4/18/17
 - ▶ Any violation extends denial to 5 years
- ▶ Comply with all waste tire laws and regulations

Questions?

Lunas Construction Clean-up



- ▶ Located in Las Vegas, NV
- ▶ Family owned business started in 1988
- ▶ Recycling operations begin in 1994 (local disposal costs ++)
 - ▶ Recycling company
 - ▶ Dumpster & bin rental
 - ▶ Rough/final construction clean up

Lunas Construction Clean-up

- ▶ Waste tire hauler since 2010
- ▶ 3 vehicles registered to haul waste tires
- ▶ 872 CTLs in WTMS (since March 2013)
- ▶ Waste tire activity
 - ▶ Pickups (637,554)
 - ▶ Deliveries (642,507)
 - ▶ <1% difference



Lunas Construction Clean-up

- ▶ Primarily hauls to Mitsubishi Cement (Lucerne Valley, CA)
- ▶ 250' rotating cement kiln
- ▶ Waste tires augment major fuel source (low-sulfur coal)



Administrative Complaint

- ▶ Issued 2/17/12
- ▶ Transporting waste tires to an unauthorized location
 - ▶ CalRecycles conducts audit of CTL records
 - ▶ During 2011, delivered 107 loads of 500 or more waste tires to an unpermitted site in Newhall, CA
 - ▶ Inspected Newhall site 5/31/11 and found to be storing 10,217 waste tires
- ▶ Errors and/or omissions on CTLs for at least 7 loads
- ▶ Seeking administrative penalty of \$105,500
- ▶ Hearing scheduled for 9/12/12

Stipulated Settlement/Decision

- ▶ Entered into negotiations
- ▶ Issued 9/26/12
- ▶ Lunas agrees to pay \$35,000—payment options
 - ▶ \$400 per month starting 10/1/12, and/or
 - ▶ Providing in-kind service to a local Calif. public entity cleaning up solid waste at “reasonably discounted rate.”
 - ▶ Discounts credit against total penalty (max. cap \$11,000)
- ▶ Remaining \$70,500 penalty held in abeyance for up to 5 years

Stipulated Settlement/Decision

- ▶ Shall not open or operate waste tire facility in Calif. during abeyance period
- ▶ No hauling waste tires to/from any new clients in Calif. for 1 year
- ▶ Provide **monthly log** of waste tire hauling to/from all Calif. customers
- ▶ Maintain **CTL (manifest) error rate of 5% or less** during abeyance period
- ▶ Comply with all other waste tire hauling laws & regulations

Notice of Partial Default #1

- ▶ Issued 3/19/13 for violating terms of earlier Stipulation
- ▶ Failure to submit complete & accurate monthly logs
 - ▶ Discrepancies between log and CTLs
- ▶ Failure to comply with all other waste tire hauling laws & regulations

Notice of Partial Default #1

- ▶ Partial default seeking additional admin. penalties of \$6,000
 - ▶ \$1,000 each for 6 missing or not submitted CTLs
- ▶ Lunas given 20 days to submit evidence to refute default
- ▶ Discussions during April-June 2013
- ▶ Letter Lunas submitted does not refute evidence supporting default

Supplemental Administrative Decision

- ▶ Negotiations take place in late June 2013 leading to Stipulated Agreement with Lunas
- ▶ Decision issued 7/16/13 based on the terms of the stipulated agreement
- ▶ Lunas agrees to pay additional \$3,000 penalty within 6 months (\$500 per month)
- ▶ Previous (Sept. 2012) stipulated agreement & decision unaffected

Notice of Partial Default #2

- ▶ Issued 3/30/16 for violating terms of earlier (Sept. 2012) Stipulation & Admin. Decision
- ▶ Failure to maintain 5% CTL error rate of (19% error rate)
- ▶ Failure to comply with all other waste tire hauling laws & regulations
- ▶ Partial default seeking additional admin. penalties of \$12,500
 - ▶ \$2,500 each for 5 CTLs with errors or omissions (3rd level penalties)
- ▶ Again Lunas given 20 days to submit evidence to refute default
 - ▶ Lunas submits letter (4/28/16) “refuting” (acknowledging) errors

Notice of Partial Default #2

- ▶ Lunas refutes the evidence...
 - ▶ “The CTL shows we **did not check mark the correct box.**”
 - ▶ “The Lunas driver **failed to complete the load date** however...”
 - ▶ “The Lunas driver **failed to put the date next to his signature** however...”
 - ▶ “...**these are clerical errors created by human beings** whom we wish were perfect.”
 - ▶ “This was a clerical error, it was **never done with the intention to defraud or harm Cal recycle.**”
 - ▶ “A **drunk driver in the state of California causing havoc and putting in danger thousands of lives is fined no more than up to \$1800** and this is for numerous times. The crime if that is what it is called doesn't fit the penalty.”

Supplemental Administrative Decision

- ▶ Lunas' "evidence" was not persuasive.
- ▶ Decision issued 6/9/16
- ▶ Show of "good faith" -- penalty reduced to \$10,000
- ▶ Lunas ordered to pay penalty within 30 days
- ▶ Previous (Sept. 2012) stipulated agreement & decision unaffected

Epilogue

- ▶ Original \$35,000 penalty (in Sept. 2012 Stip/Decision)
 - ▶ 1/3/2014--Paid off in installments (\$12,600 last payment)
- ▶ Partial default #1 -- \$3,000
 - ▶ 7/17/13—Paid in full
- ▶ Partial default #2 -- \$10,000
 - ▶ 1/10/17—Paid in full
- ▶ Original abeyance period continues through Sept. 2017
 - ▶ Remaining \$57,500 (70,500 minus \$13,000) penalty still pends

Questions?