

REQUEST FOR APPROVAL

To: Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division

From: Wes Mindermann
Supervising Waste Management Engineer
Engineering Support Branch

Reviewed By: Martha Perez, Legal Office

Request Date: August 5, 2014

Decision Subject: **Approval of the Gibson Waste Tire Site Remediation Project, Waste Tire Stabilization and Abatement Program (Tire Recycling Management Fund, FY 2013/14)**

Action By: August 8, 2014

Summary of Request:

Department of Resources Recycling and Recovery (CalRecycle) staff have completed an evaluation and recommend approval of the CalRecycle-managed remediation of the Gibson Waste Tire Site (site) located in Fresno County. The estimated cost of the remediation is \$130,000.

Recommendation:

CalRecycle staff recommend approving the remediation project.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve this project under the Waste Tire Stabilization and Abatement Program.



Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division

Dated: 8/6/14

Background Information, Analysis, and Findings:

Program Eligibility: Public Resources Code (PRC) § 42846 allows CalRecycle to perform any cleanup, abatement, or remedial work required to prevent substantial pollution, nuisance, or injury to the public's health and safety at waste tire sites where the responsible parties have failed to take appropriate action. These efforts may include stabilizing piles until removal, removing all waste tires, and/or remediating the site after the tires have been removed. CalRecycle implements short-term remediation of illegal waste tire sites with CalRecycle-managed contracts. This project would fall under the category of a short-term remediation project as identified and funded for in the current version of CalRecycle's Five-Year Plan for the Waste Tire Recycling Management Program.

Site Location/Description: The site is located in a residential neighborhood at 4682 South Elm Avenue in Fresno, California (Assessor Parcel Number 329-070-41) and contains an estimated 4,200 truck tires.

Mrs. Charlita Gibson is currently the listed property owner and Mr. Charles Osborne is the operator of this waste tire facility. Mrs. Gibson passed away on June 9, 2011, leaving her daughters, Ms. Shelly R. Osborne (the spouse of the operator, Mr. Charles Osborne) and Ms. Lorrie Emerson, as the only known remaining heirs to the property. The site meets the definition of a Minor Waste Tire Facility as defined in PRC § 42808(c) and has been in violation of the California Waste Tire Laws as prescribed in PRC § 42800 et. seq., since May 2011. The estimated 4,200 truck tires currently stored on the site far exceed the 499 tire limit allowed for an unpermitted Waste Tire Facility. On November 14, 2012, Cleanup and Abatement Order No. 2012-011021 (CAO) was issued to the property owner, operator, and all remaining heirs, ordering remediation of the site by removal of all but 499 of the waste tires onsite within 15 days from the date of service of the CAO. The CAO was served on November 16, 2012. To date, there has been noncompliance with the CAO. On June 12, 2014, Mr. Osborne was arrested for the misdemeanor violation of PRC § 42835(a), for knowingly accepting, directing, transporting, or abandoning more than 499 waste tires on the site without being issued a Minor Waste Tire Facility Permit or an authorization to operate from CalRecycle. On June 20, 2014, a pre-trial hearing was held at the Superior Court of California, County of Fresno (Court). At the pre-trial hearing, Mr. Osborne entered a no contest plea to the misdemeanor violation of PRC § 42835(a). The Court ordered Mr. Osborne to serve three years conditional sentence probation with the following terms and conditions: (1) serve 20 days in the Fresno County jail, (2) pay Court fines, (3) grant CalRecycle, the County of Fresno, and third party contractor(s) full and complete access to the property to perform any and all necessary cleanup, abatement, or remedial work at the site, (4) be liable to CalRecycle for any and all costs incurred during cleanup of the waste, abatement of the affects thereof, and (5) not accept or store any waste tires on the site. CalRecycle will now enforce the CAO by remediating the site per the terms of the CAO and the Court's Order.

Cost Recovery: Public Resources Code § 42847 directs CalRecycle to seek reimbursement for monies expended under the Program to the extent feasible from the party responsible for unlawfully storing, stockpiling, or accumulating the waste tires. In this case, Mr. Osborne pled no contest to the misdemeanor violation of PRC § 42835(a), and was ordered by the Court to be liable to CalRecycle for any and all costs incurred during the cleanup of the tires. A lien will be

filed on any properties owned by the operator, possibly including the remediated property if ownership is legally determined through the estate probate process.

Proposed Remediation Project:

The Program’s contractor will remove all of the stockpiled tires and recycle or dispose of the tires as cost effectively as possible. The tires are stacked onsite and there should be no soil disturbances associated with the loading, hauling, and recycling/disposal of the tires.

Fiscal Impacts:

Cost Estimate: The CalRecycle-managed project will be performed on a time-and-materials basis under the Program’s Northern California remediation contract number DRR12034. The Program’s contractor has conducted a site visit with CalRecycle and Fresno County staff, and developed a work plan with a preliminary cost estimate of \$130,000, which includes a 20 percent contingency.

Funding: The funding for the project will be derived from funding from the Tire Recycling Management Fund in the Program’s Northern California remediation contract number DRR12034. The contract currently is adequately funded to complete this project.

California Environmental Quality Act (CEQA):

Program staff has reviewed the proposed project and determined that it is categorically exempt per the Class 8 exemption (Title 14, California Code of Regulations §15308: Actions by regulatory agencies to assure restoration and protection of the environment). A Notice of Exemption will be filed by Program staff after project approval.

Support:

Staff has not received any written support at the time this document was submitted for approval.

Opposition:

Staff has not received any written opposition at the time this document was submitted for approval.

