
Re: Environmental Inspections

From Matthew Parker <[REDACTED]>

Date Thu 10/3/2024 11:18 AM

To envcomments <envcomments@cityofchicago.org>; Community Engagement <CommunityEngagement@cityofchicago.org>; Ivonne Sambolin <Ivonne.Sambolin@cityofchicago.org>

[Warning: External email]

Ivonne,

Thank you for getting back to me, but with all due respect your response doesn't address my main point, which is that CPDH appears to be ignoring Sims and their ongoing violations of environmental regulations. In fact, your acknowledgment that CDPH has conducted just 3 standard inspections of Sims in 2024 only reinforces the perception that CDPH is looking the other way. Your response also fails to address the reason(s) why inspections of Sims are not being conducted on at least a monthly basis, particularly with CDPH receiving weekly complaints about Sims. Furthermore, your response raises the following additional questions:

First, if there are weekly complaints about Sims how does CDPH decide which complaints warrant an inspection? Presumably, there have been numerous complaints before and after August 23, so what prompted CDPH to inspect Sims on that particular day, and why hasn't CDPH conducted another inspection of Sims over the last 6 weeks?

Second, how does CDPH justify conducting only 5 standard inspections of Sims in 2023 and only 3 standard inspections in the first 9 months of 2024? Clearly, the frequency of inspections of Sims by CDPH is on the decline, but why?

Third, how does CDPH determine which complaint-related inspections get included in the data portal and which get excluded? Is there some established set of criteria or is it an arbitrary decision on the part of the inspector?

Fourth, the EPA's air monitoring doesn't address the dust and debris, including shredder fluff, that is constantly blowing off-site from Sims. Isn't allowing waste materials to migrate off-site and into the public way a violation of the Chicago Municipal Code and Sims' recycling facility permit?

Please advise when you can.

Thank you!
Matthew Parker

On Wednesday, October 2, 2024 at 05:02:21 PM CDT, Ivonne Sambolin <ivonne.sambolin@cityofchicago.org> wrote:

Hello Mr Parker,

I'm very sorry for the delay.

CDPH is committed to protecting the environment by reducing the environmental hazards that affect community health, safety, and quality of life.

Whenever CDPH receives a complaint regarding a facility, an inspection is conducted. CDPH most recently conducted an inspection of the Sims Metal Management (Sims) facility on August 23, 2024, in response to a complaint received. In 2024, there have been three standard inspections of the Sims facility; in 2023, there were five standard inspections. Routine inspections are included on the Chicago Data Portal, whereas complaint inspections like the one conducted in August are not automatically added, which may result in what appear to be discrepancies.

The Illinois EPA, U.S. EPA and CDPH have been applying our regulatory authorities to address community concerns regarding environmental, health, and quality of life impacts around the Sims facility, which included the requirement of continuous air monitoring within the fence line of the facility in September 2022. U.S. EPA has found that if monitoring data collected over the last year represent typical levels, emissions from Sims would not cause either short- or long-term health effects for the community near the facility. Further, the U.S. EPA will continue requiring air monitoring until new controls are installed and the controls are confirmed to be operating correctly. The City may then require additional monitoring.

The intent of the continuous monitoring is to ensure community members breathe clean, healthy air because certain communities *do* experience unequal exposure to multiple environmental, health, and social stressors and their cumulative impact is then greater. The Cumulative Impact Assessment (CIA) is a citywide project meant to provide data on how environmental burdens and other stressors vary in impact across the city and is a critical step in promoting environmental justice (EJ). The Chicago EJ Index score represents the cumulative burden of environmental, health and social stressors in a census tract relative to all other census tracts in Chicago, but it is not a static screening tool, and is only one part of the CIA.

The CIA also provides strategies and actionable policy recommendations to protect all Chicago neighborhoods more fully from pollution by considering the cumulative impact of environmental, health and socioeconomic stressors in the permit review process. What ultimately ends up being an ordinance will be up to City Council.

Please let us know if you have further questions.

Thank you,

Ivonne Sambolin-Moultrie
Director of Community Engagement
Chicago Department of Public Health
111 W Washington St., 4th Floor
Chicago, IL 60602

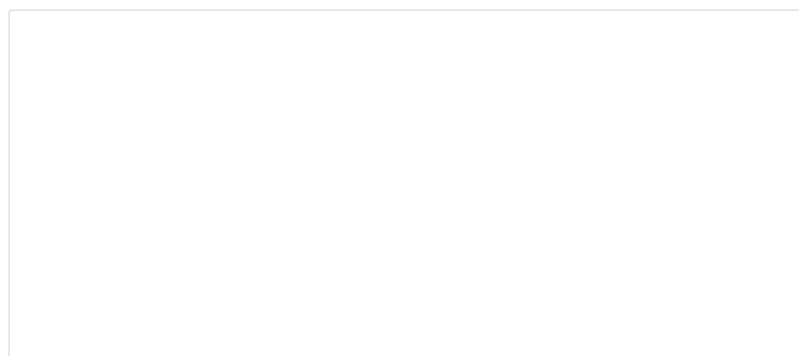
From: Matthew Parker <[REDACTED]>
Sent: Wednesday, September 18, 2024 10:53 AM
To: envcomments <envcomments@cityofchicago.org>; Community Engagement <CommunityEngagement@cityofchicago.org>; Ivonne Sambolin <Ivonne.Sambolin@cityofchicago.org>
Subject: Environmental Inspections

[Warning: External email]

Upon review of the Chicago Data Portal, I noticed that CDPH has not inspected Sims since April 19, 2024. This despite the fact that CDPH inspectors acknowledged observing “patches of fluff” off-site at 2500 S. Ashland Avenue earlier this year and despite the fact that a CDPH inspector acknowledged on April 15, 2024 that “air pollution/dust at 2500 S. Paulina ... is a weekly complaint regarding a neighboring business.”

Please explain how a serial polluter like Sims is allowed to continue operating with CDPH providing no supervision of the company whatsoever. How can a City department that claims to care about environmental justice fail to investigate the “weekly complaints” and at least inspect Sims on a monthly basis? And why did CDPH bother to conduct a Cumulative Impact Assessment, while claiming to care about environmentally burdened areas of the City like Pilsen, and then allow Sims to continue operating a shredder with no pollution controls and with CDPH providing ZERO oversight of the facility’s operations? Is CDPH purposely looking the other way and choosing to ignore Sims and their ongoing violations of environmental rules and regulations?

[City of Chicago | Data Portal](#) | [City of Chicago | Data Portal](#)



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Sims' Draft LRF Permit

From Bre B <[REDACTED]>

Date Wed 10/16/2024 2:12 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Is CDPH aware that Sims Metal is being sued for discharging toxic pollutants into rivers from SEVEN separate facilities? According to the notice of intent to sue for Clean Water Act violations issued by the Conservation Law Foundation (links below):

- “Discharge from the Facilities carries pollutants, including but not limited to, aluminum, copper, iron, lead, zinc, cadmium, chromium, oil and grease, nitrogen, and/or total suspended solids (“TSS”), into waters of the United States.”
- “Sims Has Repeatedly Failed to Take Corrective Actions as Required by the Permits Following Nearly 200 Triggering Events at the Facilities.”
- “Sims has failed and continues to fail to adequately control its discharge of pollutants and to implement required control measures as required by the Permits. This failure is evidenced by more than 400 exceedances of the Permits’ benchmark limits for heavy metals, solids, petroleum byproducts, and other pollutants.
- Additionally, Sims has failed to prevent the discharge of waste, garbage, and floatable debris, and has failed to minimize the generation of dust.”

Upon learning that Sims has been polluting so many rivers I wondered whether anyone from CDPH has investigated what pollutants, or other waste, that Sims is discharging to the South Branch of the Chicago River, particularly given that CDPH just issued a draft Large Recycling Facility (LRF) Permit to Sims. The fact that CDPH felt justified to deny an LRF permit to Southside Recycling and to then issue a draft LRF permit to a company with a long record of violating environmental regulations also made me wonder how the “compliance evaluation” of Sims was conducted, what factors were considered as part of the evaluation, etc.

During the LRF Permit application review process for Sims, CDPH was aware that Sims is a notorious polluter with an extensive history of violating federal, state and city environmental regulations. CDPH was aware that Sims is being sued by the Illinois Attorney General after a referral by the Illinois EPA. CDPH was aware that Sims violated the Clean Air Act resulting in a fine of \$225,000. And CDPH was aware that Sims has repeatedly violated Chicago Municipal Code regulations as well as conditions of their Class IVB recycling facility permit. In looking at previously submitted comments, CDPH was also made aware of the litany of environmental violations at other Sims facilities

around the country.

According to **Rule 4.0 History of Compliance/Material threat to continued compliance** from CDPH's Recycling Facility Permits Rules and Regulations:

“Before granting a new permit or renewing an existing permit for any recycling facility, the Commissioner will conduct an evaluation of the applicant’s prior experience in recycling or junk facility operations or other waste handling operations.”

In the interest of transparency, please have someone from CDPH explain, in detail, how Rule 4.0 was applied to Sims and how it was applied to Southside Recycling. Rule 4.0 states that it applies equally to both new permits and renewals of existing permits and that a permit can be denied based on the history of compliance evaluation. And please have the Commissioner explain the justification for issuing a draft LRF Permit to Sims, given that anyone conducting a legitimate compliance evaluation would conclude that Sims has not demonstrated, as the LRF Rules require, that they are “capable of operating in a manner that prevents public nuisance and protects the public health, safety, and the environment.”

<https://www.clf.org/newsroom/clf-to-sue-one-of-largest-scrap-metal-companies-in-us-for-polluting-waterways/>

<https://www.clf.org/wp-content/uploads/2024/10/Sims-Notice-Letter.pdf>

Class IVB Recycling Facility or Large Recycling Facility

From debby.chagal.net <[REDACTED]>
Date Wed 10/16/2024 3:16 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

The email sent out on October 11, 2024 notifying the public about CDPH's issuance of a draft Large Recycling Facility (LRF) Permit to Sims states "On April 5, 2024, Sims Metal Management (Sims) submitted an updated application for its continued operation as a large recycling facility (LRF) at 2500 S. Paulina Street."

The above statement contradicts the notice posted to the CDPH website on April 22, 2024 which states "Currently, Sims is legally operating under its previously-issued operating Class IVB large recycling facility operating permit without these enhanced controls in place."

And both statements contradict the draft LRF Permit which includes the following statements:

- "A permit is hereby granted by the City of Chicago Department of Public Health ("CDPH") to Metal Management Midwest Inc. dba Sims Metal Management ("the Permittee") to operate a Class IVB Large Recycling Facility located within the corporate limits of the City of Chicago at 2500 S Paulina St ("the Facility")."
- "The following Special Conditions are attached to the operating permit for the Metal Management Midwest Inc. Class IVB Recycling Facility located at 2500 S. Paulina St."

This is all very confusing, but the above contradictory statements also raise a number of questions:

1. Is Sims currently operating as an LRF, or a Class IVB Recycling Facility?
2. If Sims is operating as a Class IVB Recycling Facility, when will Sims be required to operate in accordance with the LRF Rules?
3. If Sims is operating as an LRF, what was the date when Sims ceased operating as a Class IVB Recycling Facility?

4. If Sims is operating as an LRF, why hasn't the facility been required to comply with the LRF Rules which were established over 4 years ago?
5. If Sims is operating as an LRF, why has CDPH repeatedly claimed that Sims is allowed to continue operating under their Class IVB Recycling Facility Permit, which expired nearly 3 years ago.
6. If Sims has been considered an LRF for some unknown period of time, how can they be operating under an expired Class IVB Recycling Facility Permit and without an LRF Permit?

Sincerely,

Debby Chagal

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Permit for Expansion?

From Ms denise follmar <[REDACTED]>

Date Thu 10/24/2024 12:27 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

A comment submitted to CDPH on March 22, 2023 pointed out that Sims planned to install new equipment consisting of an enclosure around the shredder and an emissions control system with a 60-foot exhaust stack, both of which would be taller than any other equipment or structure at Sims. The commenter went on to question whether CDPH had requested that Sims apply for a permit for an expansion due to the increase in the vertical boundary of the Facility. A review of LRF permit application materials submitted to CDPH indicates that Sims has not submitted a permit application for an expansion even though Sims meets the definition of an “Expanding Facility” based on the following definitions:

- “Expanding Facility” means ***an Existing Facility that has applied for a permit to allow an Expansion.***
- “Expansion” means ***an increase in the horizontal or vertical boundary of a Large Recycling Facility or an increase of more than 10% of the permitted capacity of a Facility beyond the limits established in its current permit.***
- “Facility” means ***the land and all structures, equipment, and ancillary fixtures on said land used to Process, Store, or Recycle materials, including structures, buildings, scales, roadways, parking areas, queuing areas, fences, Tipping Floors, Processing equipment, Processing Areas, Staging Areas, and monitoring stations.***

Based on the above definitions, both the shredder enclosure and the exhaust stack are clearly part of the “structures, equipment or ancillary fixtures” that make up the Sims “Facility.” And installation of those items certainly qualifies as an “Expansion” since the shredder enclosure and the exhaust stack would both be taller than any other structures, equipment, or ancillary fixtures at the Facility, thereby increasing the vertical boundary of the Facility. A recent viewing of Sims from Ashland Avenue indicates that construction of the shredder enclosure and pollution control system, including exhaust stack, is nearly complete.

Based on the facts presented above, CDPH should have considered Sims to be an “Expanding Facility”, which would have required that Sims apply for a permit to allow an Expansion, or to at least address portions of the LRF Rules applicable to New and Expanding Facilities. However, a review of Sims’ LRF Permit application reveals that there were no references made to an Expansion and none of the requirements applicable to New and Expanding Facilities were addressed in the application. By issuing a draft LRF Permit to Sims, CDPH concluded, incorrectly, that “the application meets the technical requirements pursuant to the Rules for Large Recycling Facilities.” Instead of issuing the draft permit, CDPH should have deemed Sims’ LRF Permit application incomplete, and a deficiency letter should have been issued to Sims. On behalf of the residents of Pilsen, I hereby request that CDPH rescind the draft LRF Permit issued to Sims and demand that Sims address the deficiencies in its LRF Permit application.

Recycling Facilities

From Eric Mundy <[REDACTED]>
Date Thu 10/24/2024 5:06 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

The City of Chicago's 2014 Rules and Regulations for Recycling Facilities ("Recycling Facility Ordinance"), **Section 3.0 Conditions of Permit Issuance**, Part (6) states "*The Commissioner shall not grant a new permit or renew an existing permit for any recycling facility in the City of Chicago unless the application for such permit passes the compliance history evaluation described in Section 4.0 of these regulations.*"

Section 4.0 History of Compliance/Material Threat to Continued Compliance states "*Before granting a new permit or renewing an existing permit for any recycling facility, the Commissioner will conduct an evaluation of the applicant's prior experience in recycling or junk facility operations or other waste handling operations. The Commissioner may deny or refuse to renew a permit if the evaluation shows that the applicant, or any owner or officer of the applicant, or any person having control of applicant or any of its operations, has, within the past three years, violated any federal, state, or local laws, regulations, standards, permit conditions, or ordinances in the operation of any junk facility, recycling facility, or any other type of waste or recyclable materials handling facility or site, including, but not limited to, the operation of a junk, recycling, or waste handling facility with required permit.*"

A thorough review of the Recycling Facility Ordinance, as well as applicable sections of the Chicago Municipal Code, indicates that all recycling facilities regulated by CDPH are subject to the same compliance history evaluation. In other words, there is no indication that compliance history evaluation standards or procedures applied by CDPH differ based on the class of recycling facility or the type of permit application submitted. For instance, there isn't one set of compliance evaluation standards or procedures for Class II Recycling Facilities and another set for Class IV Recycling Facilities. Similarly, there isn't one set of compliance evaluation standards or procedures for a new facility applying for an initial

Large Recycling Facility (LRF) permit and another set for an existing facility applying for an LRF Permit, or renewal of an existing Class IV recycling facility permit.

Based on the above facts, it is clear that a compliance history evaluation of Sims should have been conducted in the same manner, and using the same criteria, as the compliance history evaluation conducted for Southside Recycling, which was documented in CDPH's February 18, 2022 LRF Permit denial letter. Yet there is no indication that CDPH conducted any type of compliance history evaluation of Sims whatsoever prior to issuing a draft LRF Permit to Sims earlier this month.

In the LRF permit denial letter issued to Southside Recycling, CDPH listed various alleged violations of other adjacent businesses (not Southside Recycling). The permit denial letter went on to conclude that Southside Recycling "failed to provide sufficient evidence that the Facility can comply and stay in compliance with the terms and conditions of a Permit, the Code, or the Rules as necessary to fully protect the residents of the Southeast Side."

There is no question, based on testimony given under oath by CDPH employees, that Southside Recycling's LRF Permit application met all technical requirements required to obtain an LRF permit, yet CDPH denied the permit based on alleged compliance issues, and for other reasons which were deemed invalid by the Department of Administrative Hearings. The implication made by CDPH in the denial letter was that SSR failed the compliance history evaluation performed by CDPH. On the other hand, the fact that CDPH recently issued a draft LRF Permit to Sims suggests that Sims passed their compliance history evaluation, if such an evaluation was indeed performed.

In the interest of transparency, and on behalf of all Pilsen residents, I am requesting that CDPH disclose the results of the compliance history evaluations conducted for both Southside Recycling and Sims. I am also requesting that CDPH explain, in detail, the compliance history evaluation process, including standards applied and procedures followed, as well as the basis for concluding that Southside Recycling is incapable of operating a recycling facility in compliance with environmental rules and regulations, and then later apparently concluding that Sims is capable of operating in compliance with those same environmental rules and regulations, despite their history of past, and ongoing, violations of federal, state and city environmental rules and regulations.

Air Dispersion Modeling Study

From Bre B <[REDACTED]>

Date Tue 10/29/2024 9:14 AM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

According to Section 3.9.21 of the Large Recycling Facility (LRF) Rules, Sims was required to perform an Air Quality Impact Assessment “that includes, but is not necessarily limited to, an emissions and air dispersion modeling study of the Facility and its operations, using USEPA’s AERMOD software or other software approved by the Commissioner.”

In November 2021, Sims submitted an LRF Permit application to CDPH which included an air dispersion modeling study/report conducted by Trinity Consultants. In February 2022, RK & Associates submitted a comment to CDPH pointing out that the modeling study was incomplete. The comment submitted by RK & Associates also detailed numerous problems with the study submitted by Sims including:

- The study failed to identify each emission source at the facility.
- The study failed to demonstrate how PM10 emission rates were developed.
- The study failed to demonstrate how HAP emissions were estimated.
- The study failed to include testing results.
- The study failed to include a demonstration of control efficiency.
- The study failed to identify specific AP-42 emission factors used in the analysis.
- The study failed to justify the selected modeling parameters for each source group.
- The study failed to identify how emissions were assigned to each source.
- The study failed to factor in lead background concentrations.

- The study failed to identify that the inhalation risk for arsenic exceeds the acceptable public inhalation risk.
- The study failed to factor in the addition of PM10 background levels to the predicted AERMOD concentration as necessary to compare to the National Ambient Air Quality Standards (NAAQS). (If background concentrations were factored into the study, the impact from the facility will exceed the NAAQS standard.)

Since February 2022 when RK & Associates made CDPH aware of the problems with Sims' modeling study, Sims submitted additional permit application materials to supplement the initial LRF Permit application on two separate occasions (January 2023 and April 2024). Then in July 2024, CDPH issued a Deficiency Letter to Sims, and Sims submitted a response to the Deficiency Letter in August 2024.

A review of all supplemental permit application documents provided by Sims to date indicates that none of the problems with the modeling study have ever been addressed by Sims. Similarly, a review of available CDPH documentation, including the July 2024 Deficiency Letter, indicates that CDPH has failed to request that Sims address any of the problems with the modeling study.

Even though the air modeling study submitted by Sims was incomplete and deeply flawed, and despite the fact that none of the many problems with the study have been addressed in any way by CDPH, or Sims, CDPH issued a draft LRF Permit to Sims, concluding that "*CDPH has determined that the application meets the technical requirements pursuant to the Rules for Large Recycling Facilities.*"

How can CDPH propose to issue a permit to Sims when it has evidence that the impact from the facility will cause an exceedance of the NAAQS for PM-10, which is USEPA's health-based standard to protect the community?

It is inconceivable that CDPH could legitimately conclude that Sims' LRF Permit application met the requirements of Section 3.9.21 of the LRF Rules given that the air modeling study was so clearly inadequate. Therefore, I am requesting that CDPH provide the following information regarding the modeling study provided by Sims:

- Detailed explanation of CDPH's response to each of the eleven (11) problems with the modeling study as identified by RK & Associates.
- Names of CDPH personnel and third-party firm(s) that reviewed the modeling study including the qualifications of the person(s) that reviewed the study.
- The process utilized to review the modeling study, the results of that review, and the basis for CDPH's conclusion that that study was accurate and complete.
- CDPH's planned course of action to protect residents of Pilsen from inhalation of Arsenic based on the excessive inhalation risk posed by air emissions from Sims.

- CDPH's planned course of action to protect the residents of Pilsen from PM10 emissions based on emissions from Sims causing an exceedance of the NAAQS.
- Reason(s) that the air modeling study provided by Sims was not reviewed by the same CDPH third-party contractor (Tetra Tech) that reviewed the air modeling study provided by Southside Recycling.

Public comment: Sims Metal Management permit

From Laura S <[REDACTED]>

Date Tue 10/29/2024 10:00 AM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

To whom it may concern,

Thank you for the opportunity to comment on the proposed draft permit and potential of renewing a new permit for the South Paulina site of Sims Metal Management Midwest Inc.

As a resident of Chicago with a degree in environmental science and years of experience working in the environmental sector, **I am writing to state my concern about the city renewing Sims Metal Management's operating permit.**

Sims Metal Management has a history of violating environmental laws and regulations associated with pollution control. SMMs entered a settlement with the US EPA in 2018 after the company was found to be creating significant emissions without proper permitting or the required emission controls. A few years later, in 2021, the company was sued by Illinois Attorney General Kwame Raoul after they were once again found to be skirting their legal responsibility to reduce air pollution emitted from their Paulina site.

The impacts of shredding metal include environmental air, water, and land pollution, including the spread of toxic materials like lead, zinc, and mercury. This causes significant and long term health impacts for neighboring communities, who are already inequitably impacted by concentrated industrial pollution on the South and West side of the city.

For these reasons, I strongly encourage the city to deny the SMMs their operating permit.

Thank you for your time.

Sincerely,
Laura Szoke

Please halt the permit for Sims Metal Management

From J. Zinn <[REDACTED]>
Date Mon 11/4/2024 8:00 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

To whom it may concern,

I am a resident of Pilsen in Chicago, and have lived six blocks from 2500 S. Paulina for the past 8 years. I, like so many other neighbors and environmental organizers in the city, am highly concerned about increased pollution in the area (which already deals with high pollution) as the result of the Sims Metal Management facility's operations. I, like so many others, love the neighborhood and care for the wellbeing of those who live and spend time there. However, I also know that there are serious health risks posed by living in the neighborhood and others nearby - something that residents have been trying to get the city to address for a long time.

Please conduct a comprehensive risk assessment before granting a permit to Sims, and please consider the environmental concerns of neighbors who already have to live with pollution, which causes an increase in health problems. Please do not continue to neglect neighborhoods in the city which have been historically (and recently) disregarded in terms of environmental harm.

In 2022, HUD found that Chicago's permitting and zoning were environmentally discriminatory, and Pilsen has been identified as one of the communities most impacted by pollution.

Sims was sued by the State of Illinois in 2021 for violating federal air pollution rules. By EPA order, they have been monitoring for hazardous pollutants since, this alone is not sufficient assurance that the facility will not have a negative environmental/health impact on those living and going to school in the area.

Sims' history of environmental violations should be seriously considered, and in combination with the other existing environmental concerns in the area, when deciding whether to grant a permit.

We hope the mayor and others in Chicago's government fulfill their promises to fight environmental racism, and that they take heed of the protests taking place against this company continuing to operate without a comprehensive risk assessment and assure that residents will be able to avoid further environmental health risk.

Sincerely,
Jules Zinn

 Outlook

Sims Large Recycling Facility/Class IVB Permit (ENVREC104577)

From Bridgeport Alliance of Chicago <bridgeportalliance@gmail.com>

Date Tue 11/5/2024 8:01 AM

To envcomments <envcomments@cityofchicago.org>

Cc Charlotte Piwovar <[REDACTED]>; Anna Schibrowsky <[REDACTED]>;
Theresa McNamara <[REDACTED]>

[Warning: External email]



Bridgeport Alliance
c/o Unity Center
3339 S. Halsted St.
Chicago, IL 60608
bridgeportalliance.org

November 5, 2024

Dr. Olusimbo Ige, Commissioner
Chicago Department of Public Health
121 N. LaSalle Street
Chicago, Illinois 60602
Via email: envcomments@cityofchicago.org

RE: City of Chicago Large Recycling Facility/Class IVB Permit (ENVREC104577)
Sims Metal / Metal Management Midwest, Inc. – 2500 S. Paulina St.

Dear Dr. Ige:

Bridgeport Alliance joins Southwest Environmental Alliance in demanding that you delay the permit for Sims Metal in Pilsen until Sims constructs the VOM control system promised in the October 2021 Agreed Interim Order and detailed in the construction permit issued in September 2022 and generates reliable data showing whether the system achieves an overall reduction in emissions of 81% as required by the Illinois Pollution Control Board's regulations when operating at the permitted capacity.

Bridgeport's Park 571 sits 1,400 feet across the river from Sims. Also known as the Eleanor Street Boathouse, this 4.35-acre park encourages boating, fishing and other outdoor exercise and recreation - within range of Sims' air and water pollution. Just south of the park are some of our neighborhood's oldest homes as well as new housing developments, and those residents also are put at risk by Sims' pollution.

Sims is a serial polluter. As you know, in 2016 the U.S. EPA observed hydrocarbons exiting Sim's hammermill shredder and fugitive particulate matter crossing the property line, and in 2018 the company agreed to limit VOM emissions. In 2021 an emissions capture test showed Sims' shredder was capturing less than 50% of emissions when it was mandated to capture at least 81%, and the company, charged with more than 40 violations of the Illinois Environmental Protection Act and Illinois Pollution Control Board Air Pollution Regulations, promised in the October 2021 Agreed Interim Order to develop and implement a control system to meet the 81% standard. The same year, Sims settled 15 city tickets for 30 violations, and in 2023 the facility had a fire that released strong chemical smells into the area.

Now it is eight years after the initial violations, and Sims still has not installed the VOM control system. Sims has shown repeatedly that they will violate city, state and federal clean air regulations and sacrifice Chicago residents to boost profit for their Australian parent company.

CDPH must withhold the operating permit until the enclosure, scrubbers, thermal oxidizer and other agreed-upon control systems are fully installed and proven to achieve 81% emissions reductions when the facility is operating at 100% of the permitted capacity. CDPH must make a decision based on the laws and the measures that are necessary to protect the air and water in our communities, not out of fear of a lawsuit from Sims.

Sincerely,
Charlotte Piwowar
Chair, Bridgeport Alliance

Health Impact Assessment

From Peter Palanca <[REDACTED]>
Date Tue 11/5/2024 11:01 AM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

As CDPH is aware, the area around Sims Metal Management (Pilsen community) is one of the most environmentally burdened communities in the City of Chicago, and it is far more densely populated than the area around Southside Recycling, yet CDPH somehow determined that a Health Impact Assessment (HIA) was necessary for one facility (Southside Recycling), but not for the other (Sims).

CDPH stated in the letter denying a Large Recycling Facility (LRF) Permit to Southside Recycling that “The purpose of the HIA was to inform the permitting decision, taking into account environmental justice and equity concerns, and CDPH incorporated the results of the final HIA report in making its decision.”

This begs the question, why did CDPH perform a Health Impact Assessment (HIA) for Southside Recycling, but not for Sims Metal Management in Pilsen, if an HIA could inform a permitting decision for Sims and take into account environmental justice and equity concerns expressed by the people of Pilsen? Does CDPH believe that the residents of Pilsen are not deserving of the same consideration afforded residents on the SE side of the City?

Presumably, an HIA for Sims would allow CDPH to “assess current conditions in the community and inform the permitting decision” just as the HIA for Southside Recycling allegedly assisted CDPH in making a decision on the LRF Permit for Southside Recycling.

In an obvious attempt to avoid having to conduct an HIA for Sims, CDPH claimed in the HIA for Southside Recycling that an HIA “would not be required for existing business.” What is the basis for CDPH’s statement that an HIA is not required for existing business, particularly when there is no requirement to perform an HIA for ANY type of business, whether it be new or

existing? Why didn't CDPH exercise the same discretion to perform the HIA for Sims' LRF permit application?

In the HIA for Southside Recycling, CDPH referred to a document titled "Minimum Elements and Practice Standards for Health Impact Assessment" which states that "HIA is a forward-looking activity intended to inform a proposed program, policy, project, or plan under consideration by decision-makers; however, an HIA may evaluate an existing program, policy, project, or plan in order to inform a prospective decision or discussion."

Consistent with these "Minimum Elements and Practice Standards," CDPH clearly could have conducted an HIA for Sims since Sims' current operation would be considered an "existing program, policy, project, or plan," and the existing operation could have been evaluated to "inform a prospective decision," specifically a decision to issue or deny an LRF Permit to Sims. It just chose not to.

A review of published literature regarding impact assessments and evaluations provides further evidence that CDPH could have conducted an HIA for Sims. There are three main types of HIAs: Prospective, Concurrent and Retrospective. A Prospective HIA runs at the start of the development of a project, proposal or plan. A Concurrent HIA runs alongside the implementation of the project (or policy). And a Retrospective HIA assesses the effect of an existing project or policy and can be used as an evaluation tool.

While Prospective (forward-looking) HIAs may be more commonly used to inform permitting decisions, CDPH certainly could have conducted a Concurrent HIA or a Retrospective HIA of Sims which would have evaluated the same Impacts to Quality of Life, Environment, and Health which were evaluated in the HIA for Southside Recycling. Such an evaluation of those impacts certainly could have informed a permitting decision for Sims, just as the HIA for Southside Recycling allegedly informed CDPH's decision to deny it an LRF Permit. It is clear that CDPH never had any intention of protecting the citizens of Pilsen.

Sims Draft Permit Public Comment

From Hannah Dembosky <[REDACTED]>

Date Tue 11/5/2024 6:38 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear CDPH Team,

I would like to leave a public comment expressing that I do not believe a permit should be issued for Sims Metal Management at this time. As a Bridgeport resident and the founder of the group Bridgeport Environmentalists, I am concerned that issuing this permit will allow Sims to continue polluting the Southwest side, particularly given its history of permit violations. I stand with the Southwest Environmental Alliance's opposition to this permit.

Best,
Hannah Dembosky

Large Recycling Facility Permit

From debby.chagal.net <[REDACTED]>

Date Wed 11/6/2024 1:56 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Hello,

Special Condition 1 of Sims' draft Large Recycling Facility (LRF) Permit allows Sims to operate 5:00 a.m. to 10:00 p.m. Monday through Friday, and from 5:00 a.m. to 5 p.m. on Saturdays and Sundays. Special Condition 6 of the LRF Permit allows Sims to receive and process up to 3,000 tons per day of recyclable materials. Those two conditions effectively allow Sims to process 3,000 tons of recyclable materials per day, 365 days per year for a total of 1,095,000 tons per year, which directly conflicts with Sims' allowable annual process rate of 344,000 tons per year.

CDPH is apparently not aware of the compliance issues at Sims which include a 2017 Notice of Violation (NOV) issued by U.S. EPA for causing excess emissions of Volatile Organic Compounds and Particulate Matter. That NOV resulted in the U.S. EPA hitting Sims with a \$225,000 civil penalty and with U.S. EPA issuing an Administrative Consent Order (ACO) which limited the amount of material that Sims is allowed to process to 344,000 tons per year, less than 1/3 of the amount Sims' draft LRF Permit would allow Sims to process!

If a legitimate compliance evaluation was performed for Sims as required by Section 4.0 of the Recycling Facility Ordinance, CDPH would have been aware of the annual process rate limit from the ACO prior to issuing a draft LRF Permit to Sims. And if CDPH had any interest in applying standards equally among LRFs, CDPH would have called out Sims for requesting that CDPH authorize process limits that directly conflict with limits mandated by U.S. EPA the same way that CDPH called out Southside Recycling (SSR) for allegedly requesting "CDPH to authorize operating hours that conflicted with the hours authorized under IEPA's air construction permit."

If CDPH did conduct a compliance evaluation for Sims, how did CDPH fail to identify such a significant deficiency with the LRF Permit application? If CDPH was aware of the process limit from the ACO, does CDPH somehow think it has the authority to issue a permit with a process rate 3 times higher than the rate allowed by the U.S. EPA?

In case CDPH is not aware, a local (city) agency is not allowed to impose limits that are less restrictive than limits established by a federal agency like the U.S. EPA. As such,

CDPH must revise Sims' draft LRF Permit to effectively limit the annual process rate to 344,000 tons. Based on Sims' request to operate 7 days per week, Special Condition 6 of the draft LRF Permit should be revised to state that "The Facility may receive and process no more than 943 tons per day ($344,000 \text{ tons/year} \div 365 \text{ days/year} = 943 \text{ tons/day}$)."

Better yet, if the process for reviewing LRF permit applications is applied equally among LRFs in Chicago, and if CDPH truly cares about the health and well-being of all Chicago residents (not only residents on the Southeast Side), then CDPH would deny Sims' LRF Permit altogether, and the process rate discrepancy outlined above would be cited as one of the many reasons for the permit denial.

Sincerely,

Deborah Chagal

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November 4, 2024

FROM: Donald Wink ([REDACTED])
RE: Months of 2024 Air Pollution Data in Pilsen are Missing!

This memo reports the fact that important information on air pollution in Pilsen is missing for the period after February 2024. Along with the continued sluggishness in posting data from the USEPA-mandated Section 114 monitor system at Sims Metal Management, this means that the community is blind to the levels of air pollution. This occurs at a critical moment as the City of Chicago has posted a draft Large Recycling Facility permit for Sims.

Since the early 2010's, the Pilsen community has been the site of a monitor system at Perez Elementary School, which detects hazardous metals in total suspended particles. The monitors are operated by the Cook County Department of Environment and Sustainability. They report the data through the USEPA Air Quality System. This data typically appears every quarter.

Earlier this year, I analyzed the data that had been reported through September, 2023 and noted a significant increase in many pollutants. Later data analysis for data through February, 2024 showed that apparent levels remained high at Perez and also at the related monitor at Washington High School. Correspondence with USEPA officials led to an explanation that there was a data analysis error that led to an approximately four-fold increase in reported values. The USEPA retracted the previously posted data and issued updated values that showed much less of an increase. I have requested the underlying records so I can validate the processing error in detail. But, at this time it does seem likely that the increase was due to a calculation error.

A recent review of available data indicates that there have been no additional data posted since the retraction / revision of the September 2023-February 2024 data. This gap appears unique to the Perez and Washington sites—all other AQS sites that I checked nationally show data through June 2024. When I asked, I learned that CCDES had only recently sent the samples for March, 2024 for processing. There was also a claim that samples after that would be submitted soon. No explanation for the failure to analyze the samples has been received.

There is a similar lack of information from the SIMS monitor system, which was mandated by the USEPA and is operated by a contractor paid by SIMS. The latest data is for May, 2024, issued three months ago, in August.

This data is needed to understand the air pollution levels that the community experienced in the Summer—the season when, in 2023, it could be shown that Sims' emissions added dramatically to unhealthy levels of pollution.

Hence, the Pilsen community, at a moment of great importance to its future, is now lacking months of 2024 air pollution data. Any decisions on whether to approve the draft permit cannot be responsibly made without this data and without the community having time to respond.

Table: Mean Levels of Metals in Total Suspended Particles, 2023
All values in micrograms per cubic meter ($\mu\text{g m}^{-3}$)

	Cd	Cr	Pb	Mn	Ni
Jan		0.00163	0.00640	0.00820	0.00126
Feb		0.00188	0.00480	0.00895	0.00196
Mar		0.00171	0.01830	0.01112	0.00179
Apr		0.00335	0.03100	0.02293	0.00184
May		0.00476	0.00980	0.06547	0.00348
Jun		0.00332	0.01050	0.03017	0.00171
Jul		0.00246	0.00330	0.01271	0.00150
Aug		0.00440	0.02430	0.04178	0.00262
Sep	0.00097	0.01944	0.03900	0.18256	0.01048
Oct	0.00047	0.01749	0.04860	0.12020	0.00924
Nov	0.00051	0.01904	0.06120	0.16360	0.01001
Dec	0.00070	0.01976	0.07080	0.10960	0.01370
AVG	0.00066	0.00827	0.02733	0.06478	0.00497

Table: Individual Measurements for Lead and Manganese, Nov-Dec 2023
All values in micrograms per cubic meter ($\mu\text{g m}^{-3}$)
Highlighted cells are above the EPA action level of $0.15 \mu\text{g m}^{-3}$

Date	Lead	Manganese
10/3/2023	0.042	0.18250
10/11/2023	0.058	0.21451
10/15/2023	---	0.00085
10/21/2023	0.036	0.09686
10/27/2023	0.107	0.10627
11/2/2023	0.059	0.11429
11/8/2023	0.026	0.28632
11/14/2023	0.173	0.29572
11/20/2023	0.027	0.07899
11/26/2023	0.021	0.04269
12/2/2023	0.009	0.03166
12/8/2023	0.068	0.08345
12/14/2023	0.177	0.25389
12/20/2023	0.079	0.13777
12/26/2023	0.021	0.04135

Data taken from USEPA Air Quality System Raw Data Reports obtained from IL EPA for "POC 1" monitor at Perez Elementary, 1241 W. 19th Street, Chicago, IL.

March 26, 2024

FROM: Donald Wink (c [REDACTED])
RE: When Chicago choked on Canadian smoke, SIMS made it worse

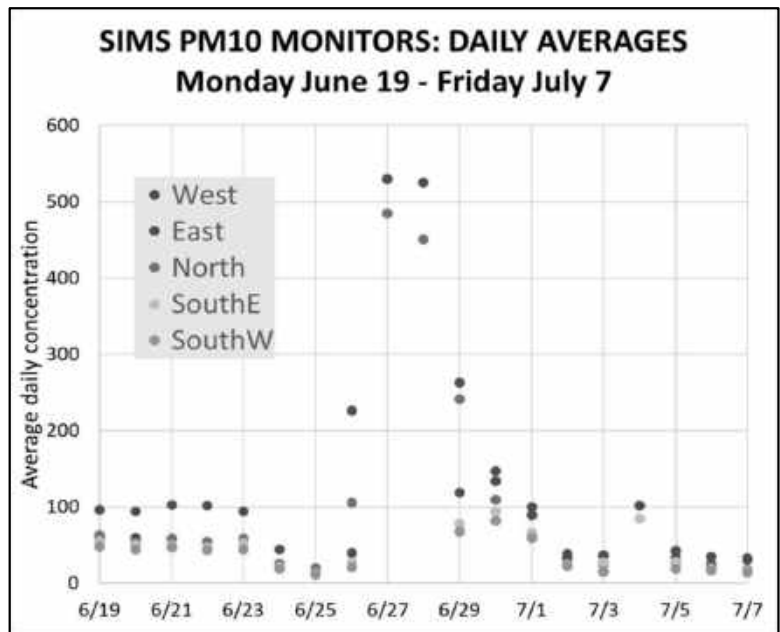
This memo discusses the obvious impact of the SIMS shredder on Chicago’s particulate matter pollution, even when the region was having some of its worst air pollution in years.

- During the period of June and July 2023, Chicagoans were suffering from severe particulate matter pollution because of Canadian wildfires.
- The SIMS monitoring system shows this, including at the Southwest monitoring site.
- The monitors closest to the shredder (West and East) show highest levels of pollution.
- Levels were also worse at the North monitor, right along Blue Island Avenue.

I have previously shown that the SIMS metal shredder, and the SIMS facility in general, are obvious sources of “PM10” pollution, which are particulates less than 10 microns in size that are often associated with respiratory ailments. Daily fluctuations show that the PM10 levels grow well above background on weekdays, while one monitor, on the southwest corner of the property, hardly changes and provides a baseline.

The US EPA has now released data that includes monitor readings from June and July 2023, when Chicago experienced very high PM10 levels, due in large part to spreading smoke from Canadian wildfires. While the EPA has noted that this is visible in their data, they have not discussed the that the data also shows about how SIMS’ shredder added even more pollution.

This graph shows the daily averages from June 19 to July 7, when the smoke was the worst.¹ In every case, the highest values are closest to the shredder, at the East or West monitor, closest to the shredder. Values at the North monitor, closest to homes on Blue Island Ave, are also higher than farther away at the Southeast and Southwest monitors. So, we can see how the shredder made things worse.



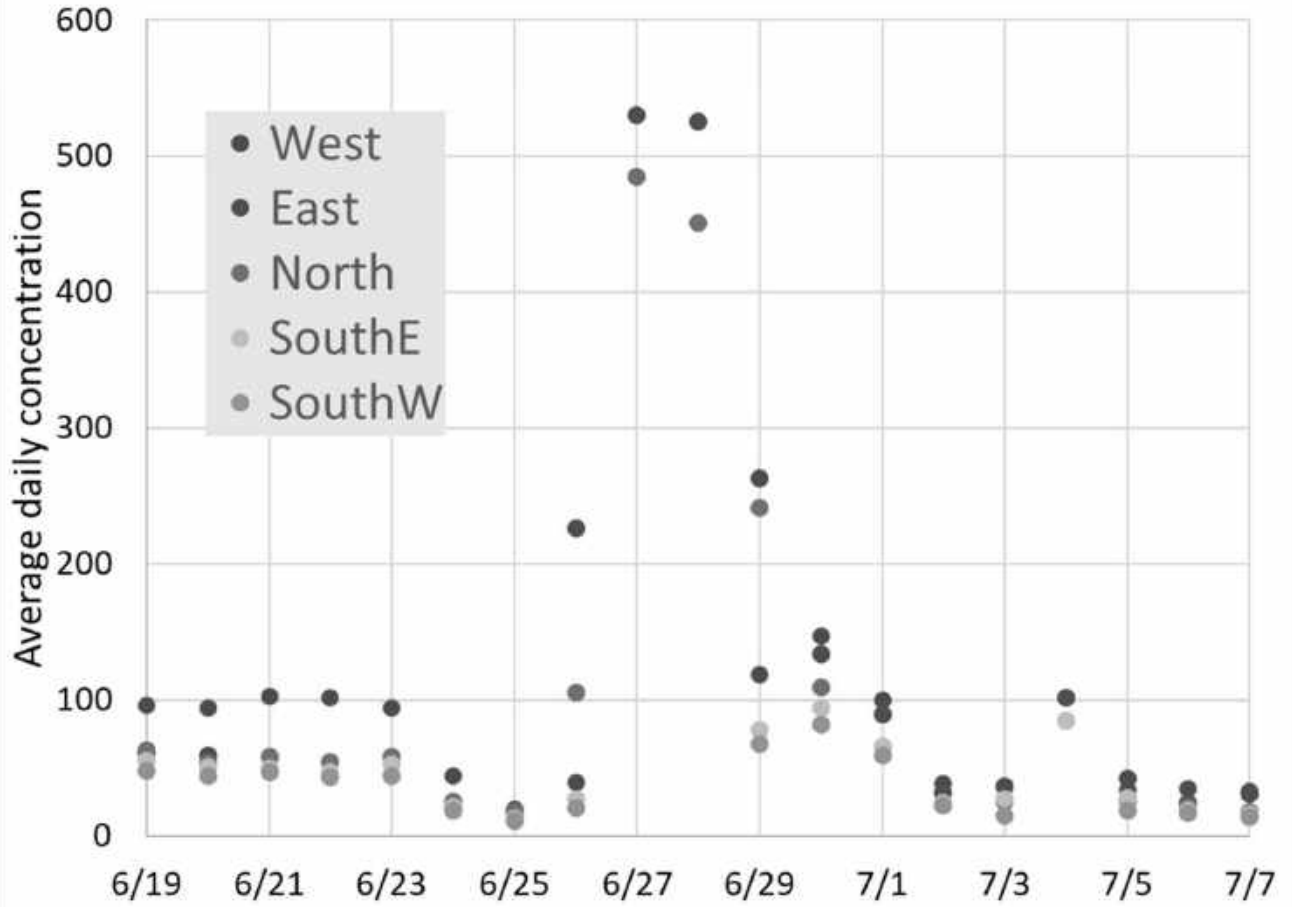
A question for the community and the city is:

Why is SIMS allowed to make the worst days even more dangerous?

¹ For some unexplained reason we don’t have data for the West monitor on June 27-28!

SIMS PM10 MONITORS: DAILY AVERAGES

Monday June 19 - Friday July 7



Comment on draft permit for Sims Metal Management S. Paulina facility

From Wink, Donald J <[REDACTED]>

Date Wed 11/6/2024 8:26 PM

To envcomments <envcomments@cityofchicago.org>

Cc citlalli Trujillo <[REDACTED]>; Maria Chávez <[REDACTED]>; Rose Gomez <rose@pilsenperro.org>; J.-M. Rodriguez-Chavez <[REDACTED]>; Dorian Breuer <dorian@breuertech.com>; Zitlalli Paez <zpaez@lvejo.org>; Jack Ailey <[REDACTED]>

 2 attachments (575 KB)

Months of Pilsen pollution data are missing November 2024.pdf; When Chicago choked SIMS made it worse 03.26.24.pdf;

[Warning: External email]

Colleagues:

I am filing a comment concerning the draft permit that has been posted for a Large Recycling Facility permit for Sims Metal Management. I am doing this as a member of the Pilsen Environmental Rights and Reform Organization (P.E.R.R.O.).

My comment has four specific components:

1. It is premature to issue the permit at this point, because an important source of information on air pollution in the community--the total suspended particle monitors at Perez Elementary School--has experienced a significant disruption, as is discussed in the attached memo. Data from September 2023 to February 2024 had to be retracted and reissued because of a alleged (but not fully documented) data processing error. Data since February is missing, even though it should be current through June, based on other sites reporting to USEPA. I have had correspondence with the Cook County Department of Environment and Sustainability, who operates the monitor, that samples from March and April have only recently been sent for processing, with plans to soon send samples from later months. There is no information on when those results will be made public. COMMENT: No permit should be issued for a major point source polluter until the CCDES can demonstrate for one year that they can ensure proper functioning and reporting of this critical monitoring system.

2. The draft permit allows Sims to conduct its own monitoring for

pollution. This should not be allowed, because Sims itself does not have the expertise to conduct such monitoring. They will likely manage this by hiring a contractor. But the contractor that they will hire will be up to their discretion and we have good reason to believe it will be Trinity Consultants, Inc. This is the firm that was responsible for preparing the highly deficient application for the permit. They are also the group that has been operating the Section 114 monitor system mandated by the USEPA. This monitoring system has had several operating problems. COMMENT: Any permit should be amended to require that the contractor be one that is truly independent of Sims, including at a minimum having no other contractual obligations to Sims and a demonstrable record of reliable relevant work. It is not enough to specify the method of monitoring. The permit should include a process for ensuring the effectiveness and independence of the monitoring system.

3. The draft permit does not specify the location of the monitors. However problematic they may be, the Section 114 system has shown that the distribution of pollutants at Sims varies significantly around their location. COMMENT: Monitors must be located at a position close to the major point sources, especially the metal shredder, and also adjacent to the high-population area near Blue Island Avenue.

4. The draft permit has no provision for Sims to control or suspend operations during periods of high pollution in the region. As is shown in an attached memo, it is clear that, at a point when natural causes (Canadian wildfires) caused PM10 levels to very unhealthy levels, the point sources at Sims added considerably. COMMENT: Any permit for a major polluter, even one whose levels do not independently cross standard levels, should include provisions to stop emissions during periods of high background pollution levels.

Sincerely,

Donald Wink, PhD

Re: Comment on draft permit for Sims Metal Management S. Paulina facility

From M. Chavez <[REDACTED]>

Date Thu 11/7/2024 9:23 AM

To Wink, Donald J <donald.wink@comcast.net>

Cc envcomments <envcomments@cityofchicago.org>; citlalli Trujillo <[REDACTED]>; Rose Gomez <rose@pilsenperro.org>; J.-M. Rodriguez-Chavez <[REDACTED]>; Dorian Breuer <dorian@breuertech.com>; Zitlalli Paez <zpaez@lvejo.org>; Jack Ailey <[REDACTED]>

[Warning: External email]

Thanks for submitting the comments.

Does anyone know how much a city issued ticket is for environmental violation? It used to be under \$500 per violation. It makes it worth the violation for the polluters. They can make more than that in an hour.

> On Nov 6, 2024, at 8:26 PM, Wink, Donald J <donald.wink@comcast.net> wrote:

>

> Colleagues:

>

> I am filing a comment concerning the draft permit that has been posted for a Large Recycling Facility permit for Sims Metal Management. I am doing this as a member of the Pilsen Environmental Rights and Reform Organization (P.E.R.R.O.).

>

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operating the Section 114 monitor system mandated by the USEPA. This monitoring system has had several operating problems. COMMENT: Any permit should be amended to require that the contractor be one that is truly independent of Sims, including at a minimum having no other contractual obligations to Sims and a demonstrable record of reliable relevant work. It is not enough to specify the method of monitoring. The permit should include a process for ensuring the effectiveness and independence of the monitoring system.

>

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>

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>

> Sincerely,

>

> Donald Wink, PhD

> <Months of Pilsen pollution data are missing November 2024.pdf>

> <When Chicago choked SIMS made it worse 03.26.24.pdf>

Do Not Renew Permit for Sims Metal Management Draft Permit

From Kimberly Eversole <[REDACTED]>

Date Thu 11/7/2024 9:34 AM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Please don't renew the permit for Sims Metal Management. This plant hurts the environment and Chicago citizens! We deserve better. Think about the health of your citizens and the plant's impact on the environment. Thank you for your time in hearing me out. Please follow your conscience.

Kimberly Eversole

November 7, 2024

SUBMITTED VIA E-MAIL

Mr. Dave Graham, PG
Director of Environmental Health and Safety Compliance
Chicago Department of Public Health
City Hall
121 N. LaSalle Street
Chicago, Illinois 60602

RE: City of Chicago Large Recycling Facility/Class IVB (DRAFT) Permit
Metal Management Midwest, Inc. – 2500 S. Paulina Street
ENVREC104577

Dear Mr. Graham,

Metal Management Midwest, Inc. (Sims Metal or Sims) sincerely appreciates your forwarding of the link to the draft Large Recycling Facility (LRF) permit for our recycling facility on South Paulina Street in the Pilsen community. Sims understands that the Public Comment Period for the draft permit began October 8, 2024 and will conclude on November 7, 2024. During this period, Sims believes it is critical, if not our obligation, to provide comment on the draft permit. Our goal is to work with the City Department of Public Health (CDPH) to finalize a permit that is mutually agreeable to both parties, that avoids issuance of a permit that will result in an appeal by Sims and that includes conditions and requirements that can be complied with at the required frequency.

We strongly encourage CDPH to consider the following comments relative to the draft LFR permit issued by the Department on October 8, 2024. Please note that the Condition Number referenced in each comment is a reference to the applicable condition number in the Attachment B, Special Conditions:

**METAL MANAGEMENT MIDWEST, INC. d/b/a SIMS METAL MANAGEMENT'S
COMMENTS TO ATTACHMENT B, SPECIAL CONDITIONS**

OPERATING HOURS

1. The Permittee may operate 5:00 a.m. to 10 p.m. Monday – Friday, from 5:00 a.m. to 5:00 p.m. on Saturdays and Sundays. CDPH reserves the right to amend the Permittee's operating hours and days of operation inf the facility operation causes a nuisance to neighborhood uses.

COMMENT: Please revise this Condition to allow for additional operations hours in accordance with past practice in order to prevent stockpile accumulation that would raise the risk of stockpile fires, where additional operations hours has been the case for the last 10+ years.

MATERIAL HANDLING

3. When transporting material to and from the Facility, the material shall fit entirely within the truck or trailer. Additionally, the truck or trailer shall have its tailgates in place, and the load covered with a tarp as necessary to control dust or loss of material. All loads containing Auto Shredder Residue (ASR) must be tarped or covered to prevent fugitive dust or ASR fiber from escaping. The Permittee shall prevent any fluids or material from spilling into the streets.

COMMENT: Condition 3 -Existing Condition w/ Updates (was No. 6) Please revise this Condition, as follows: Sims agrees to continue to follow D.O.T. regulations regarding the tarping of loads that are either owned or operated by Sims. Loads of ASR are currently required to be tarped prior to leaving the facility. Please add qualifiers to this Condition that are applicable only to the trucks that are either owned or operated by Sims.

9. The Permittee shall not store, process, or handle any recyclable materials or waste within the non-sewered area.

COMMENT: Condition 9 - New Condition. Sims does not understand the purpose of this condition. Similar to various permit conditions in the draft document, considerable care is made to prevent the storage and handling of recyclable materials near stormwater inlets and drains. This added language/condition is effectively contrary to the rest of the permit. As such, Sims is requesting removal of this permit condition.

USED VEHICLES

10. The Permittee shall not process any end-of-life-vehicle (ELV) that has not been depolluted. For purposes of this requirement, depollution shall mean the:
 - a) Removal or neutralization of potentially explosive components, (e.g., air bags).

b) Removal of fuel, motor oil, transmission oil, gearbox oil, hydraulic oil, cooling liquids, antifreeze, brake fluids, air-conditioning system fluids and any other fluid contained in the ELV.

c) Removal of mercury switches and components that may contain mercury.

COMMENT: Condition 10 - New Condition. We request that the reference to air bag removal in this permit condition be removed. Currently Sims removes, or through a Recycled Material Acceptance Agreement with customers ensures removal of, fluids, lead-acid batteries, CFCs and mercury switches prior to processing. However, there are considerable safety risks associated with our staff detonating and then removing air bags, even if technically feasible (which it is not for flattened/crushed ELVs). Lastly, air bag activation prior to shredding is not an industry practice

11. The Permittee shall thoroughly drain and separately collect all fluids from incoming used vehicles as soon as possible, including fluids from the engine, fuel tank, transmission, radiator, differential, window washing fluid tank, heater core, and all lines and hoses. The Permittee shall use a liquid drainage system that includes the use of funnels or pumps when transferring or disposing of fluids. Fluids must be stored, labeled and managed according to Federal, State, and Local Codes.

COMMENT: Condition 11 - Existing Condition. Sims has the option of either receiving cars that require depollution or receiving cars that have already met our depollution standards (consistent with our supplier recycled materials acceptance agreement (supplier agreement) language). Please update the wording in this condition to indicate that, "Sims may also receive end of life vehicles that have been depolluted, per a documented supplier agreement, prior to arrival at the S. Paulina facility. Such vehicles would not require further depollution at the Sims facility."

BATTERIES

17. Batteries shall be stored inside the building, away from sources of heat, spark, and open flame, and isolated from incompatible materials.

COMMENT: Condition 17 - Existing condition. With the current knowledge of Lithium Ion batteries and the potential for ignition, Sims has been advised not to keep such batteries inside buildings. We will have designated storage areas that are enclosed, covered, but not inside a building structure. Please update this condition to allow for storage in buildings or in other designated storage areas, that will not be impacted by weather/rain.

MATERIAL STORAGE

34. The Permittee may stockpile bulk recyclable materials that require large machinery (such as a backhoe, front-end loader, crane, or grapple) to move or process. The Permittee shall maintain such inventories no taller than 20 feet in height as shown by a pile height marker, The Facility shall maintain height markers up to 30 feet, with gradations marked at one-foot intervals, at all outdoor stockpile locations to indicate the current height of material stockpiles, such stockpiles shall be set back at least 8 feet away from the public way, as measured from the edge of the stockpile closest to the

public way. The CDPH reserves the right to further limit the footprint and height of Facility stockpiles if the above authorized areas and height limits contribute to offsite visible fugitive dust migration or otherwise causes a public nuisance.

COMMENT: Condition 34 - Existing Condition w/ updates.

Please revise this Condition to allow for inventories "no taller than 30 feet in height," consistent with our previous permit which allowed for stockpiles no taller than 30 feet. There should be no change that would make the footprint of a stockpile larger, thus creating less room for vehicles and support staff.

37. The Permittee shall remove for offsite disposal post-processed ASR stored in the ASR storage shed on a first-in, first-out basis. The Permittee shall not allow the height of such stored material to reach within 2 feet below the top of the ASR storage shed sidewall.

COMMENT: Condition 37 - New Condition. Please revise this Condition by deleting the first sentence and revising the second sentence to not allow the quantity of stored ASR to exceed the capacity of the storage shed. It is physically not possible to remove the first-in ASR from the storage shed on a first-in, first-out basis. Sims is extremely focused on daily shipments of ASR from our storage shed. Such actions are critical to ensure that we do not exceed the capacity of the shed. Additionally, the capacity of the ASR shed is based on the anticipated (and appropriate) height of ASR accumulation. A 2' from the top of the shed sidewall limitation is excessive and burdensome, unnecessarily limiting the capacity of the storage shed from its design capacity.

39. The Permittee may not store recyclable materials at the Facility for a period longer than 90 days except materials ready for shipment offsite as finished product or raw material in the manufacturing of new, reused or reconstituted products. All the storage materials recycled shall be dated.

COMMENT: Condition 39 - Existing Condition w/ updates. Please remove either the second sentence (adding a provision to require the dating of storage materials recycled) from this Condition or the entirety of this Condition.

Materials are routinely added to and removed from and stored loose in stockpiles and appear homogeneous in appearance, making it impossible to tag and date when stored in bulk.

SITE REQUIREMENTS

42. Post-Processed ASR shall be stored inside a covered, fire-proof enclosure that effectively protects the stored material from precipitation and potential ignition sources, and that prevents this material from becoming windborne. Such enclosure must be durable, weatherproof, and structurally sound and have side walls designed to resist the deadload of the ASR material piled next to it and the live load of equipment pushing ASR material on to the walls.

COMMENT: Condition 42 - New Condition. Please remove this condition as the existing structure was approved by the City and installed under permit issued by the City.

44. The Permittee shall adequately pave and maintain all material handling areas, driveways, and access/haul roads to prevent migration of contaminants off-site. The acceptable paving material shall include, but not be limited to, asphalt, concrete or gravel. The CDPH reserves the right to require any additional or alternate paving as deemed necessary by CDPH.

COMMENT: Condition 44 - Existing Condition - Please revise this Condition to include the use of asphalt millings for haul roads.

HOUSEKEEPING, DUST CONTROL, AND MAINTENANCE

46. The Permittee shall sweep Facility pavements and affected adjacent streets each working day, and on an as-needed basis. Such sweeping shall be performed using a mechanical street sweeper to effectively remove dust and litter. In addition, Facility pavements subject to vehicle traffic shall be swept so that no more than four hours elapses between each sweeping or after every 100 vehicle material receipts or dispatches, unless such pavements are free and clear of any material transported to or from the Facility or emitted by Facility operations. If the Permittee cannot sweep because of an emergency or inclement weather (i.e., pavements are inaccessible due to snow cover), the Permittee shall note such reasons in the sweeping log.

COMMENT: Condition 46 - Existing Condition w/ updates.

Please remove the reference to "every 100 vehicle receipts or dispatches". With numerous scales throughout the facility, this would be extremely difficult to track the number of vehicles in real time. Please conform this Condition to reflect that Sims will sweep every four hours, weather or situation dependent.

50. The Permittee shall not cause or allow the emission of any fugitive dust within the Facility at any material pile, transfer point, roadway or parking area that, for a period or periods aggregating more than three minutes in any one hour, exceeds an opacity of 10% based on a visual reading in accordance with the measurement method specified in 35 IAC 212.109.

COMMENT: Condition 50 - New Condition. Please either remove this Condition as inconsistent with Condition 48 or revise this Condition to conform to Condition 48 regarding a fugitive dust limitation with respect to traveling "beyond the boundaries of the Facility" and to apply the opacity requirement at the facility boundary (or fence line), not at the source activity. The appearance of 10% opacity above a material pile, at a transfer point or on a roadway has no implications regarding the offsite migration of such (visible) fugitive dust.

52. The Permittee shall use only City tap water in operating the Facility's Dust Bosses, street sweepers, and water trucks. The Permittee is not authorized to use water from the river or from the Facility's detention ponds as a water source for the above-said purposes.

COMMENT: Condition 52 - New Condition.

Please remove this new condition from the permit. For years the facility has operated utilizing water, other than tap water, for dust suppression due to poor City water availability.

53. The Permittee shall promptly (within 48 hours) repair damaged or broken pavements to sustain their integrity, prevent standing water, and minimize the generation of dust and mud. The Permittee shall promptly (within 24 hours) fill all potholes and depressions at the Facility with aggregate or suitable fill material. In addition, potholes occurring over graveled surface shall be backfilled with CA-6 aggregate, while those occurring over concrete or hot mix asphalt (HMA) pavements shall be patched using suitable methods and properly repaired as soon as possible.

COMMENT: Condition 53 - Existing Condition w/ updates.

Please revise this Condition to allow Sims to utilize suitable materials for the repair of onsite potholes, to provide additional time to implement repairs (subject to coning off the area until repairs can be made based on contractor availability).

61. Facility personnel shall patrol adjacent properties for litter at least once per working day. The Permittee shall immediately remove and dispose of any litter that is observed at the time of the inspection, even in the affected off-site areas.

COMMENT: Condition 61 - New Condition.

Please remove this Condition as Sims does not receive municipal solid waste, trash or litter, and therefore this condition should not be applied to our operation.

62. The Facility shall have personnel for patrolling sidewalks, parkways, and public areas of any litter and ASR Fibers present within a quarter mile from the Facility. During the patrols, the Permittee shall immediately remove and dispose of any litter and ASR Fiber that is observed at any affected off-site areas, including private areas with owner permission. In the event ASR Fibers are found, the Permittee shall extend the above patrol by 660 feet and do any necessary cleanup, and if ASR Fibers are found during the extended 660-foot patrol, the Permittee shall extend the patrol and do any necessary cleanup until no more ASR Fibers are observed.

COMMENT: Condition 62 - New Condition.

Please revise by limiting this Condition to provide for Sims to inspect neighboring properties for ASR Fibers and remove such fibers when found.

64. The Permittee shall conduct daily screening for odors in accordance with the Facility's Odor Control Plan. In the event any scent meter reading detect odors at or above odor thresholds set forth in 35 IAC PART 245, the Permittee shall immediately notify CDPH by email at envwastepermits@cityofchicago.org. The subject line of the email shall include "ENVREC104577 – Odor Exceedance Event."

COMMENT: Condition 64 - New Condition. Please revise this Condition to reflect the fact that Sims is not a Class V facility, which is the type of facility that requires this type of plan, and state that Sims agrees to abide by the Odor Control Plan it has submitted to CDPH. This approach should more than adequately address concerns based on the fact that we do not handle organic materials that would create this type of issue.

65. The CDPH may require the Permittee to conduct air sampling and monitoring for VOCs if CDPH attributes offsite odors to the Facility. Such monitoring and sampling may be required even when detected odors do not exceed 35 IAC PART 245 levels. Air monitoring shall be conducted using instruments capable of detecting VOCs in the parts-per-billion range, while air sampling shall be performed using EPA TO-15 method, or other methods approved by the CDPH.

COMMENT: Condition 65 - New Condition. Please delete this Condition as demonstrated to not be necessary based on two years of monitoring in accordance with the monitoring and quality assurance plans approved by US EPA, and based on which US EPA found that emissions from Sims would not cause either short- or long-term health effects for the community near the facility. Such monitoring will continue until the new emission controls being installed at the shredder are determined to be operating as intended. Sims provided the US EPA and all interested parties with two years' worth of onsite ambient air monitoring data, including the quantification of VOC concentrations at parts per billion concentrations. Additionally, the requirement to both monitor and sample for VOCs based on offsite odors is unreasonable and unnecessary, as odor is typically subjective and periodic/episodic in nature and not generally related to VOC levels.

CONSEQUENTIAL FACILITY AIR MONITORING AND NOTIFICATION

72. Permittee shall conduct filter-based sampling at the two PM10 monitoring locations. The samples shall be analyzed for TSP, PM10, and PM2.5. In addition, the Permittee shall analyze the metals content in each of the mentioned PM size fractions. Metals to be analyzed shall include antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel, and selenium using IO 3.5, NIOSH 7303, or other methods approved by CDPH. The sampling results shall be provided to CDPH monthly on the third Wednesday of each month.

COMMENT: Condition 72 - New Condition. Please remove this Condition. The LRF rules indicate that filter-based monitoring can be considered if "PM10 monitoring does not provide sufficient information regarding Fugitive Dust for the Commissioner to adequately assess the health impacts of such emissions". Sims has provided two complete years of filter based monitoring data (for PM10 and metals) to the US EPA and interested parties. The US EPA has very clearly indicated that the onsite (and therefore offsite) concentrations of pollutants around the Sims site do not result in exceedance of short- or long-term health standards. Nothing has occurred at the facility to suggest that the US EPA review warrants further consideration. Equally important to consider is the fact that the existing monitors at the facility cannot accommodate sampling of all of the listed pollutants (e.g., PM2.5).

73. The Permittee must maintain a minimum 81% filtering efficiency for its air pollution control equipment, as demonstrated by quarterly stack testing. Testing results shall be submitted to CDPH within 2 weeks after the end of each quarter. If efficiency falls below this threshold, the facility must notify the CDPH within 24 hours and provide a corrective action plan. Failure to meet the required efficiency may result in permit suspension or revocation by CDPH to protect public health. The Permittee shall send all these communications to envwastepermits@cityofchicago.org.

COMMENT: Condition 73 - New Condition Please remove this Condition as not feasible, reasonable or necessary for the required frequency and duplicative of requirements set out in the IEPA construction (and eventual operating) permit, to which the facility is bound. More importantly, the performance of the particulate control equipment at the shredder will be constantly monitored through the evaluation of several parameters, including pressure drop at the cyclone, venturi scrubber media flow, etc.

SITE SAFETY

75. The Permittee shall store all waste and recyclable materials in such a way as to ensure adequate site safety. Flammable materials shall be stored away from sources of heat, sparks, and open flames, and in accordance with applicable fire codes. Incompatible materials shall be segregated or stored away from each other.

COMMENT: Condition 75 - New Condition. This condition is identical to Condition 40. Please remove.

80. The Permittee shall monitor material piles for "hotspots" in accordance with the facility's procedures and equipment for detecting hotspots.

COMMENT: Condition 80 - New Condition. We ask that this condition be limited to recyclable material stockpiles in the shredder area only, where the greatest risk is present.

82. The Permittee shall conduct air monitoring and sampling of fire incidences lasting more than one hour, as measured between the time of the fire's initial detection and the point in time the fire is completely extinguished by the CFD, or as directed by CDPH or CFD. Such sampling shall begin no later than four hours from the time of the fire's initial detection above and shall continue at least 56 hours after the fire is extinguished.

COMMENT: Condition 82 - New Condition. Nowhere in the City's LRF rules is the concept of ambient air monitoring during fire incidences contemplated. The dangers of smoke inhalation and exposure are well known and understood without putting impossible to meet requirements on the recycling facility. There is no value to generating short-term data points regarding VOC, PAH, PCB, metal, etc. concentrations in the ambient air during a fire. It is well understood that these pollutants would have the potential to be present at harmful levels during fire events. Fires at recycling facilities are overwhelmingly due to the presence of lithium ion and other batteries in the recycled materials generated by (and received from) the public. It is a reality that we are all working to combat and rectify through legislation and rulemaking (largely related to manufacturers). In the event of fire, Sims can work with the City and local Fire Departments to inform the public and communicate any health and safety concerns (or suggested actions).

Mobilizing an emergency air monitoring effort within four hours of fire detection is difficult, costly and of little value. Furthermore, there is literally no value to continue air monitoring for 56 hours after a fire is extinguished. Additionally, in the event of a fire lasting 2, 3, or 4 hours only, how compliance could not be documented with this condition. Sims requests removal of this condition

83. The above air sampling and monitoring shall be conducted downwind of the fire and in nearby Sensitive Area(s) including Benito Juarez High School, Cristo Rey Jesuit High School, Whittier Elementary School, Canal Port Riverwalk Park, and nearby residential areas up to a half-mile radius from the Facility boundary, or as directed by CDPH or the CFD.

COMMENT: Condition 83 - New Condition. Sims requests removal of this condition not only for the reasons stated above, but also due to significant issues related to allowed access to third party locations, the inability to mobilize and maintain qualified equipment and personnel at such locations in anything close to a timely manner, and the absence of resources to implement this condition during a fire, aside from the safety and security risk of implementing this condition at such locations, especially if such fire is at night or even more so during school hours. Lastly, we understand that the fire department already has procedures in place, and the responsibility, to perform this task.

84. Air samples shall be analyzed for the following parameters and methods:

- a) VOCs using EPA Method TO-15.
- b) PNAs/PAHs using EPA Method TO-13.
- c) Polychlorinated Biphenyls (PCBs) using EPA Method TO-10.
- d) TSP, PM10, and PM2.5 by gravimetric sampling using EPA IO 3.1 or NIOSH 0500; and
- e) Metals using IO 3.5 or NIOSH 7303.

The Permittee may use alternate test methods with prior approval from CDPH.

85. The averaging time of the above sampling shall be 8 hours for the initial sampling period, followed by a 24-hour averaging time for subsequent periods, or as directed by CDPH or CFD.
86. Air monitoring shall be conducted using VOC meters capable of detecting VOC levels in the parts-per-billion range.

COMMENT: Condition Nos. 84, 85, and 86 - New Conditions. Sims requests removal of these conditions for the reasons stated above in response to Condition Nos. 82 and 83, especially regarding the risk of loss or damage to this equipment at such locations over the period of time set out in Condition 82.

RECORD KEEPING

92. The Permittee shall maintain a log of all vehicles entering and leaving the Facility. This log shall indicate the date, vehicle type, hauling company name if any, and the material type and quantity being transported. The Permittee shall maintain copies of all load ticket receipts.

COMMENT: Condition 92 - Existing Condition. Instead of "all vehicles", please revise the condition to limit it to "all vehicles delivering recycled material". Sims can't log personal vehicles, contractor vehicles, etc. that don't access our facility scale. (This request applies to Condition No. 101, as well.) The condition also should state that some or all of this information should be deemed confidential business information and also should be limited to such vehicles entering the Facility, insofar as any such vehicles entering the facility will be the same ones leaving the Facility.

101. The Permittee shall maintain copies of all load ticket receipts. In addition, the Permittee shall maintain a log of all vehicles entering and leaving the Facility. This log shall indicate the date, time, vehicle type, hauling company name if any, and the material type and quantity being transported. The Permittee shall timely provide this information to CDPH upon request. Such information shall be provided in Tableau packaged workbook (.tbwx) electronic file format.

COMMENT: Condition 101 - New Condition. Please incorporate the Comment in response to Condition 92 and also please remove the requirement to provide data in Tableau packaged workbook. Sims will be able to provide data in Excel or csv table formats to the City. Sims cannot utilize software packages that are not approved by our Information Technology group.

105. Within 45 days from the end of each quarter, the Permittee shall submit to CDPH the quarterly report pursuant to 4.17 of LRF rules. Such information shall include any waste characterization sampling report completed over the reporting quarter, including waste characterization of post-processed ASR waste, baghouse waste and street sweepings.

COMMENT: Street Sweepings are considered an "in-process" material, not a waste, due to metal content as Facility "street" sweepings generally consist of sweepings of processing and other operating areas and the traffic pathways adjacent to operating areas. Sweepings collected from such areas Please remove "Street Sweepings" from this condition.

VEHICLES

111. Additional and replacement vehicles or equipment kept and used at the Facility must comply with the engine-Tier ratings under federal and state New Source Performance Standards (NSPS).

COMMENT: Condition 111 - New Condition. Sims requests removal of this condition. Engine-Tier ratings and NSPS do not apply to all vehicles. More importantly, the City's LRF rules do not contemplate such requirements. Sims will comply with applicable non-road and stationary engine requirements, but these requirements are outside the scope of a recycling operating permit.

112. All inbound and outbound trucks carrying dirt, aggregate (including ores, minerals, sand, gravel, shale, coal, clay, limestone, or any other ore or mineral which may be mined), garbage, refuse, or other similar material susceptible to becoming windborne shall be sealed or tarped. All leaking containers and torn tarps shall be decommissioned and replaced or repaired.

COMMENT: Condition 112 - New Condition.

Please either remove this requirement or amend it to conform to D.O.T. regulations. We will continue to require Sims owned and/or operated trucks to follow D.O.T. regulations governing tarping.

113. All the trucks owned by the Permittee shall contain emission control systems. This information shall be made available to the CDPH upon request.

COMMENT: Condition 113 - New Condition. Sims requests removal of this condition, first for the reason stated in response to Condition 112 and also because it is not technically feasible for all trucks owned by Sims to contain "emission control systems," in part because the term is vague and overbroad, as well as outside the scope of the LRF rules. We will continue to meet the applicable State and Federal requirements applicable to our trucks.

MISCELLANEOUS

119. The Permittee shall send to CDPH via email at envwastepermits@cityofchicago.org, within 15 calendar days of the date of this Permit, a proposed plan for a wheel wash system for all trucks leaving the Facility. This plan shall be implemented within 60 calendar days of the date of this Permit.

COMMENT: Condition 119 - New Condition. Please remove this condition. Due to the many technical drawbacks, including weather limitations, of a wheel washing system Sims has purchased a second sweeper to address this issue.

120. Within 90 days of the issuance of this permit, the Permittee shall begin streaming air monitoring and weather station data to CDPH on real time. The data shall be sent via SFTP to sftp.envirosuite.com using the comma-separated-value (CSV) templates provided. The filename for the air monitoring data shall be the permit number, suffixed by "S1_" and timestamp (e.g., ENVREC104577S1_20151020135000). For the weather station data filename, substitute "S1_" with "M1_" (e.g., ENVREC104577M1_20151020135000). Please contact CDPH to set the point of contact with Envirosuite. This streaming does not relieve the Permittee of any reporting required under this permit.

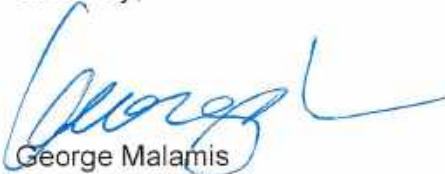
COMMENT: Condition 120 - New Condition. The LRF rules provide requirements for air monitoring data logging and monthly data reporting. There is no requirement or need to establish a web based stream of (real-time) monitoring and meteorological data to CDPH. Sims will be required to provide RAL notifications to CDPH within 15 minutes.

There is literally no legitimate reason to provide CDPH with a data stream. Please remove this unrequired (from a regulatory perspective) condition

Sims Metal greatly appreciates the Department's consideration of these important comments and updates to the draft permit. We pride ourselves in the work that we have done and will continue to do in the name of environmental performance and pride in our community. We would very much appreciate the opportunity to sit down and review these comments with CDPH. The goal of these comments is to generate a renewal permit for which compliance is possible. Many of the terms and conditions added to this renewal document have the potential to create an immediate situation of non-compliance. Such a scenario is not appropriate for an entity that has served the community for decades, has invested over \$25M in state-of-the-art upgrades to the facility (over the past year), and that has two years' worth of monitoring data demonstrating that emissions from the facility would not cause either short- or long-term health effects for the community near the facility relative to applicable standards.

We would anticipate that the Department plans to forward Sims Metal an updated draft permit, outlining the revisions made to the October 8 draft, prior to issuance of any final document. Please let us know if you have any questions or comments regarding this submittal. I can be reached at (773) 650-6440.

Sincerely,



George Malamis
General Manager, Midwest

cc: Debbie Hays (Sims)
Michael Trupin (Sims)


Sims Comments on Draft Permit

From Debbie Hays <Debbie.Hays@simsmm.com>

Date Thu 11/7/2024 2:36 PM

To envcomments <envcomments@cityofchicago.org>

Cc George Malamis <George.Malamis@simsmm.com>

 1 attachment (8 MB)

Draft LRF Permit comments 11-7-24.pdf;

[Warning: External email]

We would appreciate the opportunity to discuss further with you.

Thanks,

Debbie

Deborah Hays

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Variance Requests?

From Peter Palanca <[REDACTED]>
Date Thu 11/7/2024 3:54 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

I noticed in the draft Large Recycling Facility (LRF) Permit issued to Sims, that Special Conditions 114 and 115 are Variances that allow Sims to utilize a “Bobcat with a broom attachment to sweep site pavements” and to utilize “opaque fencing, at least 8 feet in height, which is so constructed as to contain airborne material created by Facility activities and obscure all material stored or kept within the boundaries thereof, unless said facility operations occur within the confines of an enclosed building.”

According to Section 6 of the LRF Rules, “The request for a variance must be in writing” and there are eight (8) “Standard Requirements” for a variance request. Did Sims submit a written variance request to CDPH in accordance with those requirements? If so, why haven’t those requests, or CDPH’s responses to those requests, been posted on the CDPH website?

Also, according to the Sections 3 and 4 of LRF Rules, the material composition of the barrier (fencing) around an LRF must be solid, and the facility’s street sweeper must be equipped with a vacuum system. By granting the above 2 variances, and by allowing Sims to utilize a barrier and a street sweeper that are both less effective at preventing offsite migration of dust and debris, CDPH is, once again, failing to protect the residents of Pilsen from Sims. How can CDPH justify relaxing 2 requirements that were presumably put in place to prevent offsite migration of dust and debris for a facility like Sims that has a long history of allowing such material, including shredder fluff and ASR Fibers, to repeatedly migrate offsite?

End of Life Vehicles

From Jack Tolin <[REDACTED]>

Date Thu 11/7/2024 3:59 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Special Condition 10 of Sims' draft Large Recycling Facility (LRF) Permit requires that Sims depollute End-of-Life Vehicles (ELVs) by removing the following materials from all ELVs:

- mercury switches
- air bags
- fuels
- motor oil
- transmission oil
- gearbox oil
- hydraulic oil
- cooling liquids
- antifreeze
- brake fluids
- air-conditioning system fluids
- any other fluids

Based on Sims' history of repeatedly violating federal, state and local environmental regulations, CDPH should require that Sims report the amount of each of these materials collected on a quarterly basis, along with documentation demonstrating that all such materials removed from ELVs were disposed of in accordance with applicable environmental regulations.

Large Recycling Facility Permit process

From Jim Kallas <JimKallas@Southside-recycling.com>

Date Thu 11/7/2024 4:13 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

The following comments on CDPH's decision to issue a draft LRF permit to Sims are being submitted on behalf of Southside Recycling (SSR).

First, in issuing a draft LRF permit to Sims, CDPH posted on its website that Sims' LRF Permit application "meets the technical requirements pursuant to the Rules for Large Recycling Facilities." It is unclear how CDPH reached this conclusion given all the deficiencies identified in comments previously submitted to CDPH. In particular, CDPH ignored the deficiencies in the air dispersion modeling report, as described in comments submitted by RK & Associates in February 2022, just a few months after Sims submitted its LRF permit application. In that comment, RK & Associates documented numerous technical issues with the air dispersion modeling report submitted by Sims in accordance with Section 3.9.21 of the LRF Rules, including: (1) it failed to identify that the inhalation risk for arsenic exceeds the acceptable public inhalation risk; (2) it failed to factor in lead background concentrations; and (3) it failed to factor in the addition of PM10 background levels to the predicted AERMOD concentration as necessary to compare to the National Ambient Air Quality Standards (NAAQS). Importantly, RK & Associates pointed out that if background concentrations were factored into the study (as is required), the impact from the facility would exceed the NAAQS standard.

RK & Associates then reiterated its comments in September 2024 in its review of Sims' refreshed air modeling report. RK & Associates again stated that background concentrations were not added to the AERMOD predicted concentration, "as required for comparison to [the] NAAQS." Had they been added, the impact from this facility would exceed the PM10 NAAQS standard. RK & Associates also ran the AERMOD model itself using the provided input but found that it was "impossible to confirm if the emission rates in the input modeling files are reasonably estimated" because the emission rates, control technology efficiency assumptions and emission source modeling parameter selections were used "without providing any details documenting emission calculations."

To date, it doesn't appear that any of these serious technical deficiencies with the air dispersion modeling report have been addressed by Sims or CDPH. We fail to understand, therefore, how CDPH was able to conclude that Sims' LRF permit application

meets the technical requirements of the LRF Rules. For SSR, CDPH contracted with technical experts from an outside consulting firm (Tetra Tech) to review and comment on the completeness and accuracy of the air dispersion modeling report submitted with SSR's LRF permit application. Tetra Tech's review came after the same air dispersion modeling report had already been reviewed and vetted by technical experts from the Illinois EPA, prior to issuance of a construction permit to SSR.

Why have the technical issues with Sims' air dispersion modeling report still not been addressed? Did CDPH retain a technical expert to review the modeling report? If CDPH did retain a technical expert to review Sims' air dispersion modeling report, the results of that review should be posted on the CDPH website so the public can see the basis for CDPH's determination that Sims' modeling report was sufficient and complete.

Second, at the hearing on SSR's appeal of CDPH's denial of an LRF permit, CDPH personnel admitted under oath that SSR's LRF permit application also met all the requirements of the LRF Rules. As the Department of Administrative Hearing Judge Mitchell Ex concluded, "According to the evidence presented during the hearing, which included extensive testimony from SSR as well as Chicago Department of Public Health witnesses, as of March 2021, SSR had met the LRF Rules and requirements for an operating permit."

If both Sims and SSR met the LRF Rules and requirements for an LRF permit, why did CDPH issue a draft LRF permit to Sims, but deny SSR's LRF permit? Why is Sims being treated differently than SSR?

One of the stated reasons for CDPH's denial of the LRF permit to SSR was the results of a Health Impact Assessment (HIA) that was performed for SSR, even though the requirement for an HIA is not mentioned anywhere in the LRF Rules or Chicago Municipal Code. CDPH stated in the permit denial letter to SSR that "The purpose of the HIA was to inform the permitting decision, taking into account environmental justice and equity concerns, and CDPH incorporated the results of the final HIA report in making its decision." If CDPH needed to perform an HIA to evaluate whether to issue an LRF permit to SSR, why did CDPH not conduct an HIA in reviewing Sims' LRF permit application, even after numerous requests from the public to do so? Why were environmental justice and equity concerns a factor to obtain a permit on the Southeast Side but not in Pilsen? Why is SSR's LRF permit application being held to a different standard than Sims' LRF permit application?

Another stated reason for CDPH's denial of the LRF permit to SSR was alleged compliance issues related to other recycling facilities – not SSR. In the denial letter issued to SSR, CDPH cited to the compliance evaluation it performed pursuant to Rule 4.0 of the March 2014 Rules and Regulations for Recycling Facilities as evidence that SSR could not be trusted to operate in strict compliance with the LRF Rules. If a compliance evaluation is

required by Rule 4.0 of the March 2014 Rules, why didn't CDPH conduct a compliance evaluation for Sims? Rule 4.0 clearly states that it applies to both new and existing recycling facilities. If CDPH did conduct a Rule 4.0 compliance evaluation for Sims, the results of that evaluation should be disclosed and posted on CDPH's website for the public's review. CDPH should also explain, in detail, how Sims, with its long history of repeated violations of federal, state and local environmental laws and regulations, which are still ongoing, satisfied the Rule 4.0 compliance evaluation. Why does CDPH believe that Sims, given its major ongoing compliance issues both in Chicago and at its other facilities throughout the U.S., can be trusted to operate a LRF, but SSR could not? Again, why is SSR being treated differently and being held to a different standard than Sims?

The LRF permit denial letter issued to SSR concludes with the following: "Therefore, for all the reasons explained above, CDPH finds that the facility proposes to undertake an inherently dangerous activity in a vulnerable community area, and the Applicant failed to provide sufficient evidence that the Facility can comply and stay in compliance with the terms and conditions of a Permit, the Code, or the Rules as necessary to fully protect the residents of the Southeast Side. Accordingly, the permit application is denied." CDPH states that it arrived at this conclusion based on the results of an HIA, which is not mentioned anywhere in the Municipal Code or in any of CDPH's rules or regulations, and the so-called alleged compliance issues at other recycling facilities (not SSR) that were never adjudicated, except for a single dust ticket. If CDPH were to hold Sims to the same impossible standard it applied to SSR's LRF permit application, then CDPH would not be preparing to issue Sims an LRF permit. Instead, the LRF permit would be denied and the results of the HIA and Rule 4.0 compliance review would be set forth in detail in the denial letter.

It is abundantly clear that Sims is not being held to the same standard as SSR and CDPH had no intention of ever denying this permit. CDPH owes SSR and the public an explanation for this grossly disparate treatment.

JIM KALLAS / SOUTHSIDE RECYCLING
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(O) 773-639-2118 (C) 847-508-9170



a reserve management group company.

providing safe, responsible + sustainable recycling solutions for
our customers and the environment.



Latest EPA Violations

From Bre B <[REDACTED]>
Date Thu 11/7/2024 5:11 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Is CDPH aware that yet another Sims facility was found to be violation of U.S. EPA regulations? Will CDPH include these latest violations in a compliance review of Sims, as required by Section 4.0 of the Chicago Recycling Facility Ordinance?

<https://www.epa.gov/newsreleases/epa-issues-compliance-order-baltimore-metal-shredding-operation-address-air-violations>

[https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Advanced%20Search/A419072CB166ADAD85258BC500478C68/\\$File/Sims%20ARG%20Inc_CAA%20Admin%20Compliance%20Order%20on%20Consent_Oct%2028%202024.pdf](https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Advanced%20Search/A419072CB166ADAD85258BC500478C68/$File/Sims%20ARG%20Inc_CAA%20Admin%20Compliance%20Order%20on%20Consent_Oct%2028%202024.pdf)

EPA Issues Compliance Order to Baltimore Metal Shredding Operation to Address Air Violations

November 7, 2024

Contact Information

(R3Press@epa.gov)

PHILADELPHIA (Nov. 07, 2024) The U.S. Environmental Protection Agency (EPA) announced today that it has issued an administrative order on consent to Sims ARG Inc., a scrap metal shedding and recycling facility located at 3000 Vera Street, in Baltimore, Maryland. The order alleged that the facility did not obtain the necessary permit required by the federal Clean Air Act and the Maryland State Air Permitting Program.

The permit is required in order to limit emissions of Volatile Organic Compounds (VOCs) which can contribute to ground-level ozone that can be harmful to human health. The young, the elderly and those with respiratory conditions such as asthma are especially vulnerable to the effects of ground-level ozone pollution. Test data has shown that metal shredding operations emit VOCs at rates up to 200 pounds per hour.

“For far too long, metal shredding and recycling facilities have polluted the air, especially in underserved communities in urban areas,” said **EPA Mid-Atlantic Regional Administrator Adam Ortiz**. “This action demonstrates that EPA will hold facilities accountable when they fail to take the actions necessary to meet health-based air quality standards.”

The order requires the company to submit a complete permit application to the State of Maryland within 60 days of the effective date of the order.

SIMS PUBLIC COMMENT

From Zitlalli Paez <zitlalli.p@pilsenperro.org>

Date Thu 11/7/2024 8:52 PM

To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

My name is Zitlalli Paez and I am a resident of Chicago. I stand with the Pilsen Environmental Rights and Reform Organization (PERRO) and community members in denying Sims Metals Large Recycling Permit until air monitoring data from the facility is easily accessible to the community and we are guaranteed our health is safe. The city should not consider Sim's permit while the Perez EPA monitor data is not up to date and SIMS data remains inaccessible.

The toxins and noise pollution from currently around the SIMS facility can be seen when driving down Blue Island with high activity Wednesday mornings. Their piles of metal shreds can also be easily seen from Blue Island and across the river mitigating dust.

As a resident, I demand that Sims Metals should be forced to halt shredder operations until the Chicago Department of Public Health addresses the data from the Sims monitors and has an additional meeting to discuss the health implications. PERRO demands that Sims Metals either enclose their facility and achieve zero emissions or shut down shredder operations entirely. Sims Metals is just a quarter mile from Benito Juarez Community Academy and Whittier Elementary. Projections indicate that toxic metal shredder dust is blowing directly toward the high school and residents of an already environmentally burdened community.

Sims Metal Management Draft Permit — comments

From Ed Mcnamara <[REDACTED]>
Date Thu 11/7/2024 11:36 PM
To envcomments <envcomments@cityofchicago.org>

[Warning: External email]

The city of Chicago entered into an agreement with the U S Department of Housing and Urban Development (HUD) committing itself to change its unlawful planning, zoning and land-use policies so they no longer discriminate against communities of color. Chicago had been caught red-handed offering to assist General Iron's move from the predominantly white Lincoln Park neighborhood into predominantly Latino and Black community on the southeast side. This was a bright red flag provoking HUD to step in and reprimand the city for encouraging environmental discrimination.

The city of Chicago continues to ignore the ever increasing industrial pollution levels in minority neighborhoods. In the Environmental Justice community of Pilsen, on Chicago's southwest side, the Chicago Department of Public Health (CDPH) has issued a draft Large Recycling Facility (LRF) permit for Sims Metal Management. Besides turning a blind eye on Sim's history of overlooking environmental rules and regulations and ignoring Pilsen's already high toxic pollution levels from this and other nearby polluting companies in adjacent industrial zones, CDPH is moving ahead. CDPH's choosing to ignore this situation is environmental discrimination.

Sims Metal Management in a much more common scenario is not a newly arrived polluter in Pilsen. Sims has a long checkered history in Pilsen; it is now seeking to upgrade its permit to a large recycling facility. Sims has never admitted any fault in its years of polluting the Pilsen community. The fact that eight schools with over three thousand students are at risk within one mile of the Sims facility is totally ignored. The experience of young women carrying infants on community streets is not even seen as a serious factor impacting Pilsen residents. We also view this as environmental discrimination.

Historically, CDPH has taken little note of the over-burdened nature of this community and no serious consideration in its permitting process. This clearly is environmental discrimination. If the Illinois Attorney General had not brought Sims to court because of its vile record of serial violations and measured it's harmful emissions into Pilsen's air, it would continue to pollute.

So in addition to serial polluters moving into our communities, we also suffer much more often from existing, serial polluters expanding their footprint in our neighborhoods. We invite CDPH and HUD to focus their attention on this more frequent issue and develop actionable remedies.

Amazingly, Sims has installed a stationery shear at this site without a permit, clearly flouting the city's rules and regulations.

Considering CDPH's lack of action, this older gentleman reflected that CDPH seems to hide behind nice words about protecting residents young and old, but is clearly missing in action when it is needed to enforce its own rules and regulations to protect vulnerable communities. To this senior there is one simple unanswered question: Does anyone really want to take charge here?

Sent from Gmail Mobile

Sims Comments: Draft Permit

From Brian Mckeon <[REDACTED]>

Date Fri 11/8/2024 12:02 AM

To Abraham Bradshaw <Abraham.Bradshaw@cityofchicago.org>; Olusimbo Ige <Olusimbo.Ige@cityofchicago.org>; Claudia Guzman <Claudia.Guzman@cityofchicago.org>; Angela Tovar <Angela.Tovar@cityofchicago.org>; envcomments <envcomments@cityofchicago.org>; Gabriela Wagener-Sobrero <Gabriela.Wagener-Sobrero@cityofchicago.org>

 2 attachments (7 MB)

Sims Draft Permit Comments 2024.pdf; AG Complaint, Sims 2023.pdf;

[Warning: External email]

See attached for Public Comments for the Sims Draft Permit.

- Brian McKeon
Lucha por la Villita

APPENDIX A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

FILED
6/7/2023 9:11 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH05279
Calendar, 11
23035548

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
METAL MANAGEMENT MIDWEST, INC.,)
d/b/a SIMS METAL MANAGEMENT, an)
Illinois corporation,)
)
Defendant.)

No. 2021-CH-05279

**FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), complains of Defendant, METAL MANAGEMENT MIDWEST, INC., d/b/a SIMS METAL MANAGEMENT, as follows:

COUNT I

**FAILURE TO DEMONSTRATE OVERALL REDUCTION IN UNCONTROLLED
EMISSIONS OF AT LEAST 81 PERCENT**

1. This Count is brought on behalf of the People of the State of Illinois, *ex rel.* Kwame Raoul, Attorney General of the State of Illinois, against Defendant, METAL MANAGEMENT MIDWEST, INC., d/b/a SIMS METAL MANAGEMENT (“Sims”), on his own motion and at the request of the Illinois EPA, pursuant to Section 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2020).

2. The Illinois EPA is an administrative agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2020), and charged, *inter alia*,

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with the duty of enforcing the Act.

3. At all times relevant to this First Amended Complaint, Sims was and is an Illinois corporation in good standing.

4. At all times relevant to this First Amended Complaint, Sims owned and operated and continues to own and operate a metal shredding and recycling facility at 2500 South Paulina Street, Chicago, Illinois (“Facility”). As of the date of the filing of this First Amended Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

5. Sims receives, stores, recycles, and ships ferrous and non-ferrous recyclable metallic materials at the Facility, including end-of-life vehicles (“ELV”), major appliances, and other post-consumer sheet metal and metal clips.

6. ELVs and other metallic materials are processed through a hammermill shredder at the Facility.

7. The hammermill shredder at the Facility, through the shredding process, emits and/or has the potential to emit volatile organic material (“VOM”) into the environment.

8. On December 18, 2018, Sims and the United States Environmental Protection Agency entered into an Administrative Consent Order (“Administrative Consent Order”).

9. On January 22, 2019, or a date better known to Sims, Sims submitted an application for a Federally Enforceable State Operating Permit (“FESOP”) to the Illinois EPA (“2019 FESOP Application”), as required by the Administrative Consent Order.

10. On May 13 to 14, 2021, or on dates better known to Sims, Sims initiated a proof-of-concept emissions capture test on the hammermill shredder at the Facility as part of Sims’ 2019 FESOP Application. The purpose of the test was to evaluate Sims’ capability for meeting

applicable testing methodologies to demonstrate, consistent with the requirements of the Administrative Consent Order, that the shredder operations did not possess the potential to emit 25 tons or more of VOM per year, and therefore avoid emission control requirements set forth in the current Illinois Pollution Control Board (“Board”) regulations at 35 Ill. Adm. Code Part 218, Subpart TT.

11. The results of the proof-of-concept emissions capture test revealed that the hammermill shredder at the Facility was achieving less than 50 percent estimated capture efficiency, which was below the level needed to show that the Facility operates below the potential to emit threshold in the Board’s Part 218, Subpart TT regulations.

12. Sims’ operation of the Facility is subject to the Act and the rules and regulations promulgated by the Board and the Illinois EPA. The Board’s regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code (“Board Air Pollution Regulations”).

13. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

15. Sims, a corporation, is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

17. VOM is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

18. Section 218.980(b) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.980(b), provides, in pertinent part, as follows:

b) Potential to emit:

1) A source is subject to this Subpart if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units, other than furnaces at glass container manufacturing sources and VOM leaks from components, that are:

A) Not regulated by Subparts B, E, F, H, Q, R, S, T, (excluding Section 218.486 of this Part), V, X, Y, Z, or BB of this Part, or

B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

c) If a source ceases to fulfill the criteria of subsections (a) and/or (b) of this Section, the requirements of this Subpart shall continue to apply to an emission unit which was ever subject to the control requirements of Section 218.986 of this Part.

19. Section 211.4970 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4970, provides the following definition:

“Potential to emit (PTE)” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable.

20. The hammermill shredder at the Facility has the potential to emit 25 tons or more of VOM per year.

21. Sims is subject to the control requirements of Section 218.986 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986, because the hammermill shredder at the Facility has the potential to emit 25 tons or more of VOM per year.

22. Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a), provides, in pertinent part, as follows:

Every owner or operator of an emission unit subject to this Subpart shall comply with the requirements of subsection (a), (b), (c), (d), or (e) below.

(a) Emission capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81 percent from each emission unit, . . .

(Board Note: For the purpose of this provision, an emission unit is any part or activity at a source of a type that by itself is subject to control requirements in other Subparts of this Part or 40 CFR 60, incorporated by reference in Section 218.112, e.g., a coating line, a printing line, a process unit, a wastewater system, or other equipment, or is otherwise any part or activity at a source.)

23. Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides the following definition:

“Owner or operator” means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.”

24. Sims is an “owner or operator” as that term is defined by Section 211.4370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4370.

25. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

211.1950, provides the following definition:

“Emission unit” means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.”

26. Section 211.6370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

211.6370, provides the following definition:

“Stationary source” means any building, structure, facility or installation that emits or may emit any air pollutant.

27. Section 211.370 of the Board Air Pollution Regulations, 35 Ill. Adm. Code

211.370, provides the following definition:

“Air pollutant” means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the atmosphere. Such term includes any precursors to the formation of any air pollutant, to the extent that the relevant statute or rule has identified such precursor or precursors for particular purpose for which the term “air pollutant” is used.

28. Sims’ Facility is a “stationary source,” where Sims operates its hammermill shredder, which is an “emission unit” capable of emitting VOM, which is an “air pollutant” as those terms are defined in Sections 211.6370, 211.1950, and 211.370, respectively, of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.6370, 211.1950, and 211.370.

29. As the owner or operator of an emission unit subject to Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a), Sims was required to demonstrate an overall reduction in uncontrolled VOM emissions of at least 81 percent from its shredding operations at the time of the rule’s effectiveness or applicability to Sims’ Facility.

30. By failing to demonstrate that its shredding operations have achieved an overall reduction in uncontrolled VOM emissions of at least 81 percent, Sims violated and continues to violate Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a).

31. By violating Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a), Sims thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2020).

32. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary, and after trial, a permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter a preliminary and, after a trial, permanent injunction in favor of Plaintiff against Defendant, METAL MANAGEMENT MIDWEST, INC., on this Count I:

1. Finding that Defendant violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2020), and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a);

2. Enjoining Defendant from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2020), and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a);

3. Ordering Defendant to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a);

4. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT II

CONSTRUCTING AN EMISSION SOURCE WITHOUT A PERMIT

1-8. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 5, 12, and 14 through 15 of Count I as paragraphs 1 through 8 of this Count II.

9. On October 4, 2022, Illinois EPA and the United States Environmental Protection Agency representatives conducted an inspection of the Facility.

10. At the time of the October 4, 2022 inspection, a stationary shear was operating at the Facility (“Shear”).

11. In or about 2020, or a date or dates better known to Sims, Sims constructed the Shear at the Facility that is used to cut thick pieces of metal and alloys to specifications.

12. The Shear, by its cutting of metals and alloys, emits and/or has the potential to emit particulate matter (“PM”) into the environment.

13. Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), provides as follows:

No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations or (2) in violation of any conditions imposed by such permit.

14. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

15. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

16. The Shear is capable of emitting contaminants into the atmosphere in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property and is capable of causing or contributing to “air pollution” as that term is defined by Section 3.115 of the Act, 415 ILCS 5/3.115 (2020).

17. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

“Air Contaminant”: any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere from an emission source.

“Construction”: commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

“Emission Source”: any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“New Emission Source”: any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Specified Air Contaminant”: any air contaminant as to which this Subtitle contains emissions standards or other specific limitations and any contaminant regulated in Illinois pursuant to Section 9.1 of the Act.

18. The building and/or installation at the Facility of the Shear constitutes “construction” as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 315 Ill. Adm. Code 201.102.

19. PM is capable of being released into the atmosphere from the Shear, which is an “emission source”, and is therefore an “air contaminant” as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

20. Subtitle B (Air Pollution), of Title 35 (Environmental Protection) of the Illinois Code of Administrative Regulations contains specific limits on PM, and therefore PM is a “specified air contaminant” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

21. The Shear was constructed after April 14, 1972, and constitutes a “new emission source,” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

22. By causing or allowing the construction of a new emission source, the Shear, without applying for and obtaining a construction permit from the Illinois EPA, Sims violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).

23. Sections 9.12 of the Act, 415 ILCS 5/9.12 (2020), provides, in pertinent part, as follows:

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

* * *

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution

construction permit prior to commencing construction.

24. From 2020 through the date of filing of this First Amended Complaint, or a date or dates better known to Sims, Sims failed to pay the applicable fee for a construction permit prior to constructing the Shear.

25. By failing to pay applicable construction permit fees, Sims violated Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2020).

26. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter a preliminary and, after a trial, permanent injunction in favor of Plaintiff against Defendant, METAL MANAGEMENT MIDWEST, INC., on this Count II:

1. Finding that the Defendant violated Section 9(b) and 9.12(j) of the Act, 415 ILCS 5/9(b) and 9.12(j) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

2. Enjoining the Defendant from any further violations of Section 9(b) and 9.12(j) of the Act, 415 ILCS 5/9(b) and 9.12(j) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering Defendant to take all necessary immediate corrective action which will result in a final and permanent abatement of the violation of Section 9(b) and 9.12(j) of the Act, 415 ILCS 5/9(b) and 9.12(j) (2020), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

4. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT III

OPERATING A STATIONARY SOURCE WITHOUT A CLEAN AIR ACT PERMIT PROGRAM PERMIT OR FEDERALLY ENFORCEABLE STATE OPERATING PERMIT

1-11. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 5, 12, and 14 through 15 of Count I and paragraphs 9 through 11 of Count II as paragraphs 1 through 11 of this Count III.

12. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020), provides as follows:

6. Prohibitions.

* * *

b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

13. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2020), provides, in pertinent part, the following definitions:

“CAAPP” means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

“CAAPP permit” . . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

“Emission Unit” means any part or activity of a stationary source that emits or has the potential to emit any air pollutant. This term is not meant to alter or affect the definition of the term “unit” for purposes of Title IV of the Clean Air Act.

“Federally enforceable” means enforceable by [the United States Environmental Protection Agency].

“Major source” means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph (c) of subsection 2 of this Section.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term “capacity factor” as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

“Regulated air pollutant” means the following:

- (1) Nitrogen oxides (NO_x) or any volatile organic compound.
- (2) Any pollutant for which a national ambient air quality standard has been promulgated.
- (3) Any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act.
- (4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act.
- (5) Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Clean Air Act, including Sections 112(g), (j) and (r).

(i) Any pollutant subject to requirements under Section 112(j) of the Clean Air Act. Any pollutant listed under Section 112(b) for which the subject source would be major shall be considered to be regulated 18 months after the date on which USEPA was required to promulgate an applicable standard pursuant to Section 112(e) of the Clean Air Act, if USEPA fails to promulgate such standard.

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Clean Air Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

(6) Greenhouse gases.

“Source” means any stationary source (or any group of stationary sources) that is located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

14. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2020), provides as follows:

2. Applicability.

a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

* * *

c. For purposes of this Section the term “major source” means any source that is:

* * *

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100

tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate”, 50 tons or more per year in areas classified as “serious”, 25 tons or more per year in areas classified as “severe”, and 10 tons or more per year in areas classified as “extreme”; except that the references in this clause to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which USEPA has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that the requirements otherwise applicable to such source under Section 182(f) of the Clean Air Act do not apply. Such sources shall remain subject to the major source criteria of subparagraph (ii) of paragraph (c) of this subsection.

15. At all times relevant to this First Amended Complaint, Sims’ Facility has been, and continues to be, a building, structure, facility, or installation which emits or may emit VOM and PM, each a “regulated air pollutant”, thereby constituting a “stationary source”, as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2020).

16. At all times relevant to this First Amended Complaint, Sims’ Facility has been, and continues to be, a stationary source belonging to a single major industrial grouping, thereby constituting a “source”, as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2020).

17. Since at least December 2, 2016, or on a date or dates better known to Sims, Sims was located in a severe non-attainment area for ozone and the potential to emit 25 tons per year of VOM; and thus, is a “major source” under Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(c)(iii)(A) (2020).

18. As the owner and operator of the Facility, Sims is the “owner or operator” of a “CAAPP source as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2020).

19. The Shear, which is capable of emitting PM, is an “emission unit” as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) 2020.

20. Sims, as the owner or operator of a CAAPP source, is subject to the CAAPP permitting requirements.

21. Section 39.5(5)(b) of the Act, 415 ILCS 5/39.5(5)(b) (2020), provides as follows:

An owner or operator of a CAAPP source shall submit a single complete application covering all emission units at the source.

22. Section 39.5(5)(i) of the Act, 415 ILCS 5/39.5(5)(i) (2020), provides as follows:

Any applicant who fails to submit any relevant facts necessary to evaluate the subject source and its CAAPP application or who has submitted incorrect information in a CAAPP application shall, upon becoming aware of such failure or incorrect submittal, submit supplementary facts or correct information to the Agency. In addition, an applicant shall provide the Agency additional information as necessary to address any requirements which become applicable to the source subsequent to the date the applicant submitted complete CAAPP application but prior to release of the draft CAAPP permit.

23. Section 39.5(1.1)(a) and (b) of the Act, 415 ILCS 5/39.5(1.1)(a) and (b) (2020), provides as follows:

1.1 Exclusion from the CAAPP.

- a. An owner or operator of a source which determines that the source could be excluded from the CAAPP may seek such exclusion prior to the date that the CAAPP application for the source is due but in no case later than 9 months after the effective date of the CAAPP through the imposition of federally enforceable conditions limiting the “potential to emit” of the source as described in paragraph (c) of subsection 2 of this Section, within a State operating permit

issued pursuant to subsection (a) of Section 39 of this Act. After such date, an exclusion from the CAAPP may be sought under paragraph (c) of subsection 3 of this Section.

- b. An owner or operator of a source seeking an exclusion from the CAAPP pursuant to paragraph (a) of this subsection must submit a permit application consistent with the existing State permit program which specifically requests such exclusion through the imposition of such federally enforceable conditions.

24. The Shear, as an emission unit, must be included in a CAAPP permit as required by Section 39.5(5)(b) of the Act, 415 ILCS 5/39.5(5)(b) (2020).

25. Prior to operating the Shear, Sims was required to amend its 2019 FESOP Application to include the Shear to have a complete and accurate FESOP application in compliance with Section 39.5(5)(i) of the Act, 415 ILCS 5/39.5(5)(i) (2020).

26. Sims failed to amend the 2019 FESOP Application to include the Shear prior to operating the Shear.

27. On January 17, 2023, approximately 3 years late, Sims submitted a FESOP application to the Illinois EPA that included the Shear.

28. By operating without a complete and accurate CAAPP permit or FESOP application from 2020 to the date of filing of this First Amended Complaint, Sims violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020).

29. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter a preliminary and, after a trial, permanent injunction in favor of Plaintiff against Defendant, METAL MANAGEMENT MIDWEST, INC., on this Count III:

1. Finding that the Defendant violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020);
2. Enjoining the Defendant from any further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020);
3. Ordering Defendant to take all necessary immediate corrective action which will result in a final and permanent abatement of the violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020);
4. Assessing against Defendant, pursuant to Section 42(b)(5) of the Act, 415 ILCS 5/42(b)(5) (2020), a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020);
5. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as this Court deems appropriate and just.

COUNT IV

FAILURE TO TIMELY SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORTS

1-28. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 5, 8-9, 12, 14 through 17, and 23-28 of Count I, paragraphs 9 through 11 of Count II, and paragraphs 12 through 18 of Count III as paragraphs 1 through 28 of this Count IV.

29. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

No person shall:

- a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to

violate regulations or standards adopted by the Board under this Act;

30. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

31. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

32. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102 shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

33. Defendant, as the owner or operator of emissions units, was required pursuant to Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), to submit Annual Emissions Reports (“AERs”) for all emission units, including the Shear, to the Illinois EPA each year by May 1 for the preceding calendar year.

34. On January 17, 2023, Sims submitted revised AERs for calendar years 2020 and 2021 that included the Shear, between approximately 1 year and 8 months and 2 years and 8 months late; and thus, failed to timely submit a complete and accurate AER for calendar years

2020 and 2021 to Illinois EPA.

35. By failing to timely submit complete and accurate AERs for the years 2020 and 2021, Defendant violated Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and also violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

36. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter a preliminary and, after a trial, permanent injunction in favor of Plaintiff against Defendant, METAL MANAGEMENT MIDWEST, INC., on this Count IV:

1. Finding that the Defendant violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

2. Enjoining the Defendant from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

3. Ordering Defendant to take all necessary immediate corrective action which will result in a final and permanent abatement of the violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code

201.302(a), and Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a);

4. Assessing against Defendant a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation;

5. Ordering Defendant to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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6. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

/s/ Stephen J. Sylvester
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Current Location: Elev: 610 ft. Lat: 41.7841° N Lon: -87.7551° W

Station: CHICAGO MIDWAY AIRPORT, IL US WBAN: 72534014819 (KMDW)

Generated on 05/19/2023

Date	Temperature (F)										Degree Days (base 65F)	Sun (LST)		Weather	Weather Type	Precipitation (in)	Pressure (inHg)			Wind		Maximum Wind Speed = MPH		
	Max	Min	Avg	Dep	ARH	ADP	AWB	Heat	Cool	Rise		Set	TLC				Snow Fall	Snow Depth	Avg Sim	Avg SL	Avg Speed	Peak Speed	Peak Dir	Sust. Speed
1	50	41	46					19	0	0448	1849	RA	0.05		28.80		16.0	39	320	28	320			
01	50	41	46					19	0	0448	1849	RA	0.05		28.80		16.0	39	320	28	320			
02	55	43	49					16	0	0446	1850		0.00		29.00		14.0	34	340	24	340			
03	57	41	49					16	0	0445	1851		0.00		29.26		9.0	24	340	18	350			
04	73	41*	57					8	0	0444	1852		0.00		29.31		6.1	24	150	17	110			
05	79	56	68					0	3	0443	1853		0.00		29.36		13.2	37	170	22	200			
06	79	60	70					0	5	0441	1855	TS RA	0.03		29.31		11.6	32	160	21	170			
07	85*	60	73					0	8	0440	1856	TS RA BR	0.05		29.19		10.9	29	150	22	060			
08	68	51	60					5	0	0439	1857	RA BR	0.08		29.32		8.6	24	030	17	040			
09	70	49	60					5	0	0438	1858		0.00		29.48		7.1	19	080	14	090			
10	80	51	66					0	1	0437	1859		0.00		29.47		5.2	22	180	14	100			
11	83	57	70					0	5	0436	1900		0.00		29.38		6.3	23	160	15	080			
12	76	60	68					0	3	0434	1901	RA BR	0.31		29.36		6.2	18	080	13	060			
13	68	57	63					2	0	0433	1902	DZ BR HZ	T		29.46		9.2	25	070	21	060			
14	65	55	60					5	0	0432	1903	RA	0.01		29.65		10.5	25	010	18	010			
15	68	53	61					4	0	0431	1904		0.00		29.55		6.5	16	050	12	050			
16	81	51	66					0	1	0430	1905		0.00		29.23		8.8	35	360	26	010			

Degree Days		Season-to-date		Temperature		Precipitation		Snow		Weather	
Monthly	Departure	Total	Departure	Max	Min	>=0.01"	>=0.1"	>=1"	T-Storms	Heavy Fog	
Departure from Normal (1981-2010)											
Monthly Averages Totals											
Number of days with...											
Sea Level Pressure											
Date											
Time											
24-Hr... Snowfall											
Snow Depth											
Station Augmentation											
Name: N/A Lat: N/A Lon: N/A Elevation: N/A Distance: N/A Elements: N/A Equipment: N/A											

APPENDIX B

Local Climatological Data
Hourly Observations
May 2023

Current Location: Elev: 610 ft. Lat: 41.7841° N Lon: -87.7551° W

Generated on 05/19/2023

Station: CHICAGO MIDWAY AIRPORT, IL US WBAN: 72534014819 (KMDW)

Date	Time (LST)	Station Type	Sky Conditions	Visibility	Weather Type (see documentation)			Dry Bulb Temp (F)	Wet Bulb Temp (F)	Dew Point Temp (F)	Rel Hum %	Wind Speed (MPH)	Wind Dir (Deg)	Wind Gusts (MPH)	Station Press (InHg)	Press Tend	Net 3-Hr Change (InHg)	Sea Level Press (InHg)	Report Type	Precip Total (In)	Altimeter Setting (InHg)
					AU	AW	MW														
08	0053	7	BKN:07 180 OVC:08 200	10.00			67	19.4	59	15.0	53	11.7	61	3	190		29.22		FM-15	0.00	29.88
08	0153	7	OVC:08 160	10.00			57	13.9	54	12.2	52	11.1	83	11	010		29.24		FM-15	0.00	29.90
08	0253	7	OVC:08 160	10.00			54	12.2	51	10.6	49	9.4	83	7	360		29.25	1	FM-15	0.00	29.91
08	0300	4		9.94			54	12.2	51	10.6	49	9.4	83	7	360		29.25	1	FM-12		
08	0353	7	OVC:08 160	10.00			53	11.7	50	10.0	48	8.9	83	7	020		29.25		FM-15	0.00	29.91
08	0453	7	FEW:02 30 BKN:07 130 BKN:07 150	10.00			53	11.7	50	10.0	47	8.3	80	7	040		29.28		FM-15	0.00	29.94
08	0553	7	FEW:02 30 BKN:07 130 OVC:08 150	10.00			52	11.1	49	9.4	46	7.8	80	5	050		29.30	3	FM-15	0.00	29.96
08	0653	7	FEW:02 13 BKN:07 130 OVC:08 150	10.00			53	11.7	50	10.0	47	8.3	80	5	030		29.27		FM-15	0.00	29.93
08	0753	7	FEW:02 130 SCT:04 150	10.00			56	13.3	52	11.1	49	9.4	77	7	080		29.26		FM-15	0.00	29.92
08	0853	7	FEW:02 65 BKN:07 95 OVC:08 110	8.00		-RA:02	55	12.8	52	11.1	50	10.0	83	6	060		29.28	5	FM-15	0.02	29.94
08	0900	4	57	7.46		RA	55	12.8	52	11.1	50	10.0	83	6	060		29.28	5	FM-12		
08	0953	7	FEW:02 70 OVC:08 85	4.00		-RA:02	54	12.2	52	11.1	51	10.6	90	9	040		29.25		FM-15	0.04	29.91
08	1024	7	BKN:07 7 BKN:07 75 OVC:08 05	5.00		-RA:02	54	12.2	52	11.1	51	10.6	90	7	030		29.27		FM-16	T	29.93
08	1053	7	OVC:08 7	5.00		BR:1	54	12.2	52	11.1	51	10.6	90	6	010		29.28		FM-15	T	29.94
08	1153	7	OVC:08 6	4.00		-RA:02	55	12.8	53	11.7	52	11.1	90	7	010		29.28	3	FM-15	0.02	29.94
08	1218	7	SCT:04 6 BKN:07 10 OVC:08 15	4.00		-RA:02	55	12.8	54	12.2	53	11.7	93	7	020		29.28		FM-16	0.01	29.94
08	1244	7	SCT:04 8 BKN:07 17 OVC:08 47	5.00		-RA:02	56	13.3	54	12.2	53	11.7	90	8	030		29.28		FM-16	0.01	29.94
08	1253	7	SCT:04 9 BKN:07 22 OVC:08 65	4.00		BR:1	56	13.3	54	12.2	53	11.7	90	8	030		29.28		FM-15	T	29.94
08	1324	7	SCT:04 6 OVC:08 65	5.00		BR:1	57	13.9	55	12.8	54	12.2	90	9	010		29.28		FM-16		29.94
08	1351	6	BKN:07 6 OVC:08 65	6.00		BR:1	57	13.9	55	12.8	54	12.2	88	9	030		29.27		FM-16		29.93
08	1353	7	BKN:07 6 OVC:08 65	6.00		BR:1	57	13.9	55	12.8	54	12.2	90	9	030		29.27		FM-15	0.00	29.93
08	1451	6	FEW:02 9 BKN:07 12 OVC:08 65	8.00			55	12.8	53	11.7	52	11.1	88	15	030		29.28		FM-16		29.94
08	1453	7	FEW:02 9	8.00			56	13.3	54	12.2	52	11.1	87	14	030		29.28	5	FM-15	0.00	29.94

08	1500	4	BKN:07 12 OVC:08 65	7.46		56	13.3	54	12.2	52	11.1	87	14	030		29.28	5	0.00	29.94	FM-12		29.96
08	1541	7	OVC:08 9	8.00		55	12.8	53	11.7	52	11.1	90	16	040		29.30			29.94	FM-16	T	29.96
08	1553	7	OVC:08 9	8.00		55	12.8	53	11.7	52	11.1	90	15	020		29.31			29.97	FM-15	T	29.97
08	1653	7	OVC:08 6	7.00		52	11.1	51	10.6	50	10.0	93	13	040		29.34			30.00	FM-15	T	30.00
08	1753	7	OVC:08 6	9.00		52	11.1	50	10.0	49	9.4	89	10	040		29.34	1	-0.06	30.00	FM-15	T	30.00
08	1853	7	BKN:07 9 OVC:08 26	9.00		52	11.1	50	10.0	49	9.4	89	8	020		29.35			30.01	FM-15	0.00	30.01
08	1915	7	BKN:07 11 OVC:08 26	10.00		53	11.7	51	10.6	49	9.4	86	7	010		29.34				FM-16		30.00
08	1951	6	FEW:02 11 SGT:04 26 OVC:08 50	10.00		54	12.2	52	11.1	50	10.0	88	7	040		29.33			29.99	FM-16		29.99
08	1953	7	FEW:02 11 SGT:04 26 OVC:08 50	10.00		53	11.7	51	10.6	50	10.0	89	7	040		29.33			29.99	FM-15	0.00	29.99
08	2053	7	FEW:02 11 FEW:02 55	10.00		52	11.1	50	10.0	49	9.4	89	13	020		29.34	8	+0.01	29.99	FM-15	0.00	30.00
08	2100	4	15 FEW:02 6 SGT:04 11 SCT:04 55	9.94		52	11.1	50	10.0	49	9.4	89	13	020		29.34	8	+0.01	29.99	FM-12		30.00
08	2100	7	FEW:02 6 SGT:04 11 SCT:04 55	9.00		52	11.1	50	10.0	49	9.4	89	10	020		29.34				FM-16		30.00
08	2108	7	BKN:07 6 BKN:07 11	9.00		52	11.1	50	10.0	49	9.4	89	16	020		29.34				FM-16		30.00
08	2153	7	SCT:04 8 OVC:08 12	10.00		52	11.1	50	10.0	48	8.9	86	11	020		29.37			30.03	FM-15	0.00	30.03
08	2230	7	BKN:07 15 BKN:07 21 OVC:08 35	10.00		52	11.1	49	9.4	47	8.3	83	8	010		29.38				FM-16		30.04
08	2253	7	SCT:04 21 BKN:07 55	10.00		52	11.1	49	9.4	47	8.3	83	11	020		29.38			30.04	FM-15	0.00	30.04
08	2303	7	BKN:07 21	10.00		52	11.1	49	9.4	46	7.8	80	11	020		29.38				FM-16		30.04
08	2341	7	SCT:04 22 BKN:07 45 OVC:08 60	10.00		52	11.1	49	9.4	46	7.8	80	8	010		29.39				FM-16		30.05
08	2353	7	FEW:02 24 SCT:04 45 BKN:07 60	10.00		52	11.1	49	9.4	46	7.8	80	7	010		29.39	1	-0.05	30.05	FM-15	0.00	30.05

Local Climatological Data
Hourly Remarks
May 2023

Current Location: Elev: 610 ft. Lat: 41.7841° N Lon: -87.7551° W

Generated on 05/19/2023

Station: CHICAGO MIDWAY AIRPORT, IL US WBAN: 72534014819 (KMDW)

Date	Time (LST)	Remarks
08	0053	MET10805/08/23 00:53:02 METAR KMDW 080653Z 19003KT 10SM BKN180 OVC200 19/12 A2988 RMK AO2 SLP111 T01940117 \$ (GJS)
08	0153	MET10105/08/23 01:53:02 METAR KMDW 080753Z 01010KT 10SM OVC160 14/11 A2990 RMK AO2 SLP119 T01390111 \$ (GJS)
08	0253	MET10705/08/23 02:53:02 METAR KMDW 080853Z 36006KT 10SM OVC160 12/09 A2991 RMK AO2 SLP123 T01220094 51019 \$ (GJS)
08	0300	SYN06472534 32966 83606 10122 20094 39904 40123 51019 90853 555 90809=
08	0353	MET10105/08/23 03:53:02 METAR KMDW 080953Z 02006KT 10SM OVC160 12/09 A2991 RMK AO2 SLP126 T01170089 \$ (GJS)
08	0453	MET11505/08/23 04:53:02 METAR KMDW 081053Z 04006KT 10SM FEW030 BKN130 BKN150 12/08 A2994 RMK AO2 SLP137 T01170083 \$ (GJS)
08	0553	MET13905/08/23 05:53:02 METAR KMDW 081153Z 05004KT 10SM FEW030 BKN130 OVC150 11/08 A2996 RMK AO2 SLP144 70005 T01110078 10200 20111 53019 \$ (WEB)
08	0653	MET11305/08/23 06:53:02 METAR KMDW 081253Z 03004KT 10SM FEW013 BKN130 OVC150 12/08 A2993 RMK AO2 SLP133 T01170083 (WEB)
08	0753	MET11305/08/23 07:53:02 METAR KMDW 081353Z 08006KT 10SM FEW013 FEW130 SCT150 13/09 A2992 RMK AO2 SLP131 T01330094 (WEB)
08	0853	MET14005/08/23 08:53:02 METAR KMDW 081453Z 06005KT 8SM -RA FEW065 BKN095 OVC110 13/10 A2994 RMK AO2 RAB40 SLP135 P0001 T01280100 55009 (WEB)
08	0900	SYN07672534 11762 80605 10128 20100 39914 40135 55009 69937 761// 91453 555 90815=
08	0953	MET11805/08/23 09:53:02 METAR KMDW 081553Z 04008KT 4SM -RA BR FEW070 OVC085 12/11 A2991 RMK AO2 SLP127 P0005 T01220106 (WEB)
08	1024	MET11805/08/23 10:24:02 SPECI KMDW 081624Z 03006KT 5SM -RA BR BKN007 BKN075 OVC095 12/11 A2993 RMK AO2 P0000 T01220106 (WEB)
08	1053	MET11305/08/23 10:53:02 METAR KMDW 081653Z 01005KT 5SM BR OVC007 12/11 A2994 RMK AO2 RAE38 SLP137 P0000 T01220106 (WEB)
08	1153	MET14105/08/23 11:53:02 METAR KMDW 081753Z 01006KT 4SM -RA BR OVC006 13/11 A2994 RMK AO2 RAB23 SLP135 P0001 60007 T01280111 10133 20111 53001 (WEB)
08	1218	MET11805/08/23 12:18:02 SPECI KMDW 081818Z 02006KT 4SM -RA BR SCT006 BKN010 OVC015 13/12 A2994 RMK AO2 P0001 T01280117 (WEB)
08	1244	MET11805/08/23 12:44:02 SPECI KMDW 081844Z 03007KT 5SM -RA BR SCT008 BKN017 OVC047 13/12 A2994 RMK AO2 P0001 T01330117 (WEB)
08	1253	MET12705/08/23 12:53:02 METAR KMDW 081853Z 03007KT 4SM BR SCT009 BKN022 OVC065 13/12 A2994 RMK AO2 RAE51 SLP136 P0001 T01330117 (WEB)
08	1324	MET10005/08/23 13:24:02 SPECI KMDW 081924Z 01008KT 5SM BR SCT006 OVC065 14/12 A2994 RMK AO2 T01390122 (MH)
08	1351	MET09505/08/23 13:51:02 SPECI KMDW 081951Z 03008KT 6SM BR BKN006 OVC065 14/12 A2993 RMK AO2 FIB1 (MH)
08	1353	MET10705/08/23 13:53:02 METAR KMDW 081953Z 03008KT 6SM BR BKN006 OVC065 14/12 A2993 RMK AO2 SLP135 T01390122 (MH)
08	1451	MET09905/08/23 14:51:02 SPECI KMDW 082051Z 03013KT 8SM FEW009 BKN012 OVC065 13/11 A2994 RMK AO2 FIB1 (MH)
08	1453	MET12305/08/23 14:53:02 METAR KMDW 082053Z 03012KT 8SM FEW009 BKN012 OVC065 13/11 A2994 RMK AO2 SLP138 60001 T01330111 55001 (MH)
08	1500	SYN07072534 12362 80312 10133 20111 39914 40138 55001 69937 92053 555 90821=
08	1541	MET10505/08/23 15:41:02 SPECI KMDW 082141Z 04014KT 8SM OVC009 13/11 A2996 RMK AO2 DZB07E39 P0000 T01280111 (MH)
08	1553	MET11205/08/23 15:53:02 METAR KMDW 082153Z 02013KT 8SM OVC009 13/11 A2997 RMK AO2 DZB07E39 SLP148 P0000 T01280111 (MH)
08	1653	MET11205/08/23 16:53:02 METAR KMDW 082253Z 04011KT 7SM OVC006 11/10 A3000 RMK AO2 RAB18E43 SLP159 P0000 T01110100 (MH)
08	1753	MET113605/08/23 17:53:02 METAR KMDW 082353Z 04009KT 9SM OVC006 11/09 A3000 RMK AO2 RAB14E49 SLP160 P0000 60001 T01110094 10139 20111 51021 (MH)
08	1853	MET09905/08/23 18:53:01 METAR KMDW 090053Z 02007KT 9SM BKN009 OVC026 11/09 A3001 RMK AO2 SLP163 T01110094
08	1915	MET099305/08/23 19:15:01 SPECI KMDW 090115Z 01006KT 10SM BKN011 OVC026 12/09 A3000 RMK AO2 T01170094
08	1951	MET10005/08/23 19:51:03 SPECI KMDW 090151Z 04006KT 10SM FEW011 SCT026 OVC050 12/10 A2999 RMK AO2 FIB1 (MH)
08	1953	MET10705/08/23 19:53:01 METAR KMDW 090153Z 04006KT 10SM FEW011 SCT026 OVC050 12/10 A2999 RMK AO2 SLP156 T01170100
08	2053	MET10605/08/23 20:53:01 METAR KMDW 090253Z 02011KT 10SM FEW011 FEW055 11/09 A3000 RMK AO2 SLP157 T01110094 58002
08	2100	SYN06472534 32466 20211 10111 20094 39934 40157 58002 90253 555 90903=
08	2100	MET09905/08/23 21:00:01 SPECI KMDW 090300Z 02009KT 9SM FEW006 SCT011 SCT055 11/09 A3000 RMK AO2 T01110094
08	2108	MET09205/08/23 21:08:02 SPECI KMDW 090308Z 02014KT 9SM BKN006 BKN011 11/09 A3000 RMK AO2 T01110094
08	2153	MET10005/08/23 21:53:02 METAR KMDW 090353Z 02010KT 10SM SCT008 OVC012 11/09 A3003 RMK AO2 SLP169 T01110089
08	2230	MET10005/08/23 22:30:02 SPECI KMDW 090430Z 01007KT 10SM BKN015 BKN021 OVC055 11/08 A3004 RMK AO2 T01110083

08	2253	MET10005/08/23 22:53:02 METAR KMDW 090453Z 02010KT 10SM SCT021 BKN055 11/08 A3004 RMK AO2 SLP173 T01110083
08	2303	MET088605/08/23 23:03:02 SPECI KMDW 090503Z 02010KT 10SM BKN021 11/08 A3004 RMK AO2 T01110078
08	2341	MET10005/08/23 23:41:02 SPECI KMDW 090541Z 01007KT 10SM SCT022 BKN045 OVC060 11/08 A3005 RMK AO2 T01110078
08	2353	MET13505/08/23 23:53:02 METAR KMDW 090553Z 01006KT 10SM FEW024 SCT045 BKN060 11/08 A3005 RMK AO2 SLP176 T01110078 10117 20106 402000106 51018

Local Climatological Data
Hourly Precipitation
May 2023

Current Location: Elev: 610 ft. Lat: 41.7841° N Lon: -87.7551° W
 Station: CHICAGO MIDWAY AIRPORT, IL US WBAN: 72534014819 (KMDW)

Generated on 05/19/2023

Date	For Hour (LST) Ending at																	Date																																										
	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	NOON	1 PM	2 PM	3 PM	4 PM	5 PM		6 PM	7 PM	8 PM	9 PM	10 PM	11 PM	MID	180																																		
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Time Period (Minutes)	5					10					15					20					30					45					60					80					100					120					150					180				
Precipitation (inches)																																																												
Ending Date Time (yyyy-mm-dd hh:mi)																																																												

Hourly, daily, and monthly totals on the Daily Summary page and the Hourly Precipitation Table are shown as reported by the instrumentation at the site. However, NWS does not edit hourly values for its ASOS sites, but may edit the daily and monthly totals for selected sites which will be reflected on the Daily Summary page.

T = Trace
 * = Suspect
 * = Erroneous
 blank = No precipitation observed
 M = Missing

Sims Draft Permit Comments 2024

CDPH Must Use Both the 2014 and the 2020 Rules for Recycling Facilities

The most recent edition of the CDPH Large Recycling Facility Rules are the 2020 LRF Rules (Rules for Large Recycling Facilities 2020 Update). However, these 2020 rules explicitly state that they are a supplement, not a replacement to the 2014 Recycling Facility Rules (Rules and Regulations for Recycling Facilities, March 2014). In part 1 of the 2020 LRF Rules in the Scope and Purpose section it is clearly stated “These rules supplement the requirements contained in the Recycling Facility Rules dated March 19, 2014, as amended.” As such, CDPH is required to use both the 2014 and the 2020 rules when considering permit applications.

CDPH Must Consider Sims’ Track Record of Law-Breaking

One of the requirements of the CDPH 2014 Recycling Facility Rules is that CDPH is required to consider the “Compliance History” of the permit applicant when assessing whether to issue or renew a permit.¹ Section 4.0 of the 2014 rules requires the CDPH Commissioner to “conduct an evaluation of the applicant’s prior experience in recycling or junk facility operations or other waste handling operations.”² This section also empowers the Commissioner to “deny or refuse to renew a permit” if the evaluation shows that the applicant has “violated any federal, state, or local laws, regulations, standards, permit conditions, or ordinances” within the past three years.³ This section also specifies that operating a “waste handling facility without required permits” is one of the types of legal violations by which the Commissioner can deny or refuse to renew a permit.⁴

The Commissioner must also assess whether the applicant facility has posed a threat to continued compliance with any laws while the permit has been under review. A permit can be denied if the Commissioner finds that while CDPH considered the permit application the facility conditions posed a “material threat to continued compliance with any of the laws, regulations, standards, permit conditions, or ordinances identified” in Section 4.0.⁵

The operating permit Sims is currently seeking was applied for in November 2021. Applying the three-year a “lookback” period described in Section 4.0(1) of the 2014 Recycling Facility Rules, CDPH must consider any violations of law by Sims since November 2018.

¹ See Section 3.0, City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

² Section 4.0, City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

³ Section 4.0(1) City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

⁴ Section 4.0(1) City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

⁵ Section 4.0(2) City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

Sims has a Track Record of Violating State, Federal, and Local Laws Since 2018

Uncontrolled Emissions from Sims Hammermill Shredder

On May 13 and 14, 2021 Sims “initiated a proof-of-concept emissions capture test on the hammermill shredder”. According to the Illinois Attorney General, the “results of the proof-of-concept emissions capture test revealed that the hammermill shredder at the Facility was achieving less than 50 percent estimated capture efficiency”.⁶ A “capture efficiency” below 50% falls far short of the 81% efficiency required by the Illinois Board Air Pollution Regulations. As recently as 2023, the IL Attorney General stated that by “failing to demonstrate that its shredding operations have achieved an overall reduction in uncontrolled VOM emissions of at least 81 percent, Sims violated and continues to violate Section 218.986(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.986(a)”⁷ and also “thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2020)”⁸

Constructing a Stationary Shear without a Permit

In October of 2022 representatives from the IL EPA and the US EPA conducted an inspection of Sims’ Recycling Facility. During this inspection it was discovered that Sims was operating a Stationary Shear which they had not received a permit to construct or operate.⁹ “By causing or allowing the construction of a new emission source, the Shear, without applying for and obtaining a construction permit from the Illinois EPA, Sims violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, and thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2020).”¹⁰ In constructing the Stationary Shear, Sims additionally violated the following Illinois laws and regulations: Section 9(b) of the Act, 415 ILCS 5/9(b) (2020); Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

Operating a Stationary Shear without a Permit

According to the Illinois Attorney General, the Sims’ Stationary Shear is classified as an “emission unit” per Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2020).¹¹ The Clean Air Act Permit Program (CAAPP) was developed pursuant to Title V of the Clean Air Act and regulates

⁶ Count I Section 10-11, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

⁷ Count I Section 30, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

⁸ Count I Section 31, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

⁹ Count II Section 22, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹⁰ Count II Section 22, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹¹ See Count III Section 13, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

emission units like Sims' Stationary Shear. "The Shear, as an emission unit, must be included in a CAAPP permit as required by Section 39.5(5)(b) of the Act, 415 ILCS 5/39.5(5)(b) (2020)."¹²

"Prior to operating the Shear, Sims was required to amend its 2019 FESOP [Federally Enforceable State Operating Permit] Application to include the Shear to have a complete and accurate FESOP application in compliance with Section 39.5(5)(i) of the Act, 415 ILCS 5/39.5(5)(i) (2020)."¹³ Despite this legal requirement, "Sims failed to amend the 2019 FESOP Application to include the Shear prior to operating the Shear."¹⁴ Sims continued to operate the Shear without amending their FESOP application until January of 2023 when they "submitted a FESOP application to the Illinois EPA that included the Shear."¹⁵ "By operating without a complete and accurate CAAPP permit or FESOP application... Sims violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2020)"¹⁶

Constructing and Operating a Stationary Shear Without CDPH Permitting

In addition to constructing and operating the Stationary Shear without a construction or operating permit from the IL EPA, Sims also did not receive a construction or operating permit from CDPH. In Sims' currently held LRF Operating permit, Table One in Attachment B: Special Conditions, #8 includes a list of pieces of Equipment which the Permittee is "authorized to operate". Contained within this Table is no mention of a "Stationary Shear".

Sims has not submitted any requests for a variance under the LRF Rules related to the Stationary Shear. Sims has not submitted any permit amendments to their currently held operating permit related to the installation and operation of a Stationary Shear. Sims has not sought a modification permit as required when new equipment is installed. Sims has sought a permit renewal when they should be seeking a Modification Permit.

By Sims' own admission, the Stationary Shear is used by Sims "for the mechanical shearing/cutting of metal material"¹⁷ Sims has no pollution control devices attached to this machinery and admits that "the Bonfiglioli shear consist of particulate matter (PM) and, since there is no exhaust stack associated with the equipment, are emitted fugitively [sic]".¹⁸

Sims has failed to obtain a Construction permit from the City of Chicago and CDPH for their Bonfiglioli Stationary Shear. Sims has also failed to make the City of Chicago and CDPH aware

¹² Count III Section 24, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹³ Count III Section 25, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹⁴ Count III Section 26, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹⁵ Count III Section 27, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹⁶ Count III Section 28, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

¹⁷ Sims' January 16, 2023 letter to IEPA: Metal Management Midwest, Inc. - Chicago Illinois Plant (ID No. 031600FFO) Supplement to Federally Enforceable State Operating Permit Application

¹⁸ Sims' January 16, 2023 letter to IEPA: Metal Management Midwest, Inc. - Chicago Illinois Plant (ID No. 031600FFO) Supplement to Federally Enforceable State Operating Permit Application

that they have built and are operating a stationary shear on their property. Sims has failed to request or receive a permit to operate a Stationary Shear from CDPH. By installing and operating the Stationary Shear, Sims has chosen to violate state law, federal law, and the Chicago Municipal Code. Additionally, they have violated state regulations, federal regulations, and the CDPH rules for LRF. Sims actions also represent a violation of the conditions placed upon them by their current operating permit. Each of these violations represents grounds to both terminate Sims currently held operating permit, as well as deny the currently sought renewal permit.

Failure to Timely Submit Complete and Accurate Annual Emission Reports to IL EPA

The Illinois EPA Air Pollution Regulations (35 Ill. Adm. Code 254.132(a) & 254.137(a)) and the Illinois Board Air Pollution Regulations (35 Ill. Adm. Code 201.302(a)) require companies like Sims to file complete and accurate Annual Emissions Reports (AER). Sims failed to include the Stationary Shear in their 2020 and 2021 Annual Emissions Reports. “By failing to timely submit complete and accurate AERs for the years 2020 and 2021, Defendant [Sims] violated Section 254.132(a) of the Illinois EPA’s Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), and also violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).¹⁹

Examples of Law-Breaking Show that Sims Poses a Threat to “Continued Compliance”

These examples are just a few among many examples of Sims failure and refusal to follow the law. These examples also show that Sims poses a significant risk of future law-breaking. Sims’ inability or unwillingness to follow the law show that they pose a significant danger to the community and the City of Chicago. Sims’ track record shows that they only make efforts to comply with the law when sued and forced into action by the judicial system. Such a history shows that if a permit is granted, there is a high likelihood that Sims will continue to violate the law. Section 4.0 of the 2014 2014 Recycling Facility Rules allows the Commissioner to deny a permit if CDPH believes the applicant poses a “material threat to continued compliance with any of the laws, regulations, standards, permit conditions, or ordinances”.²⁰ Sims has a substantial track record of law-breaking and failure to comply with the law. The Commissioner should recognize Sims as a material threat to future legal compliance and deny the permit application per Section 4.0(2) of the 2014 Recycling Facility Rules.

Other Grounds to Deny Sims’ Permit Application

¹⁹ Count IV Section 35, KWAME RAOUL v Metal Management Midwest Inc., First Amended Complaint for Injunctive Relief and Civil Penalties 6/7/2023

²⁰ Section 4.0(2) City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

Sims is Currently Operating Under a Terminated Operating Permit.

Sims is currently operating under a permit which has expired. The first page of Sims' current operating permit issued November 30, 2018 states that "[t]his permit allows for the operation of the Facility from 11/16/2018 through 11/15/2021 upon which time the permit shall terminate by its own terms." CDPH also allowed Sims to continue to operate on that permit if they applied for a subsequent operating permit before November 21, 2018. "If a subsequent operating permit is applied for on or before 11/21/2018, this permit shall remain in effect until the CDPH acts on the pending permit application." Sims' subsequent operating permit application was submitted to CDPH in November of 2021. Because a "subsequent operating permit" was not "applied for... before 11/21/2018", Sims' operating permit "terminate[d] by its own terms" on November 15, 2021. Without a valid and current Large Recycling Facility permit, Sims is operating illegally and should cease operations immediately.

Sims has filed an incomplete Annual Recycling Report.

Under Chicago Municipal Code, a Recycling Permit cannot be renewed if the applicant has not submitted a complete Annual Recycling Report.

The 2023 Annual Recycling Report submitted by Sims is lacking several elements required by the Chicago Municipal Code.

An annual recycling report must contain "the approximate percentage of each type or category of recyclable material collected by the permittee" (see Chicago Municipal Code 11-4-2535(a)(3)). In Sims' 2023 Annual Recycling Report the table labeled "Percentage of Recyclable Materials Collected per Facility" has been left completely blank. Sims has provided no information regarding the approximate percentage of each category of waste material the company collected in 2023. This information is required by the code, and was not provided.

An annual recycling report must also contain "the name and location to which each type or category of recyclable material was delivered" (see Chicago Municipal Code 11-4-2535(a)(3)). In Sims' 2023 Annual Recycling Report the tables labeled "Percentage of Recyclable Materials Collected per Facility", "Approximate Percentage of Construction and Demolition Debris Collected and the Receiving Facility", and "Approximate Percentage of Waste delivered to Each Facility" require entries for "Name of Facility", "Name of Receiving Facility", and "Facility Name" (respectively). All of these entry columns have been left blank by Sims. Sims has provided no information as to the name and location of any facilities which have received the various categories of recyclable material. This information is required by the code, and has not been provided.

An annual recycling report also requires information regarding "the approximate percentage of each type or category of recyclable material delivered to each named location" (see Chicago Municipal Code 11-4-2535(a)(3)). While Sims' 2023 Annual Recycling Report contains some figures regarding Gross Tonnage of certain materials collected, there is no information regarding the percentage of each category of material nor to what locations such material was delivered (see Sims' 2023 Annual Recycling Report tables labeled "Percentage of Recyclable Materials Collected per Facility", "Approximate Percentage of Construction and Demolition Debris

Collected and the Receiving Facility", and "Approximate Percentage of Waste delivered to Each Facility"). Again this is information required by the code which Sims has failed to provide.

The information referenced above is required by the Chicago Municipal Code and is not optional. The code uses very strong language in saying that "The annual report...shall contain the following data and information..." (see Chicago Municipal Code 11-4-2535(a)). The use of "shall" makes it quite clear that providing each subcategory of information is compulsory. Since Sims has not provided this vital and necessary information required by the code, their 2023 Annual Recycling Report should be considered incomplete.

The Chicago Municipal Code anticipated that a company might submit an incomplete Annual Recycling Report. According to the code, "If a permittee under this section... submits an incomplete annual recycling report, such permittee's permit under this section shall not be renewed by the Department of Public Health until such time that the annual recycling report required under Section 11-4-250 is submitted and is complete." (Chicago Municipal Code 11-4-2520). Again, the use of "shall" requires CDPH to deny the renewal of a Large Recycling Facility operating permit when an Annual Recycling Report is incomplete. For this reason, CDPH must not renew Sims' Large Recycling Facility operating permit.

Sims' Air Dispersion Modeling Report is Flawed

The Air Dispersion Modeling Report submitted by Sims with their permit application was created by making assumptions about the performance of the "future emission control system". However the actual efficiency of the system is unknown and has not been tested. CDPH should require actual data on the efficiency of the Air Pollution Controls when all Air Pollution Controls are installed and in working order.

Sims Poses an Unacceptable Risk to the Health of Pilsen Residents

A Risk Assessment Study is Needed

Sims is located in an Environmental Justice Neighborhood and is located within a half mile of multiple schools for children. When evaluating whether to grant an LRF permit for General Iron to operate on Chicago's Southeast side, a Health Impact Assessment was done. This Assessment took into account characteristics of the neighborhood and its residents which stood to be affected by the Recycling Facility.

When General Iron's Southeast LRF permit was denied the Health Assessment was a big part of the reasoning for that decision. CDPH took into consideration the health factors of the residents near the facility and that the area was already overburdened by pollution in denying the General Iron permit.

If CDPH thought a risk assessment for the Southeast side of Chicago was necessary to properly evaluate the potential danger to members of that community, the potential danger to residents of Pilsen should also be assessed. The neighborhood characteristics and demographics should be considered as well as the current health issues and burdens experienced by Pilsen residents.

Pilsen residents suffer with asthma, respiratory disease, heart disease, cancer, and lung disease at disproportionately high levels compared to the City of Chicago Generally. These factors must be studied and considered by CDPH before a permit decision can be made. If CDPH will not deny Sims' permit application at this time, CDPH should instead pause the permit process so that CDPH can perform a Risk Assessment. Only after a comprehensive study of the risks posed by Sims to Pilsen residents should a permit decision be made.

To not properly evaluate the risks to Pilsen Residents would both be discriminatory and go against the City's commitments in the HUD Agreement to end City practices of Environmental Discrimination. To require a Risk Assessment for one community but not another unfair, unequitable, and discriminatory.

Sims is located in an EJ Neighborhood

The City of Chicago and CDPH are required by the Consent Decree with HUD to make sure city decisions do not exacerbate problems of Environmental Racism in the city. Pilsen is a community already overburdened by industry and pollution. Pilsen is also home to vulnerable populations which need enhanced protections as is required by federal fair housing law.

EPA's Conclusion is unsupported, offers no evidence or analysis, and does not properly assess health risks to the community

The conclusion from the EPA that "emissions from Sims would not cause either short- or long-term health effects for the community near the facility" is conclusory and does not provide any specific evidence or analysis to show how this conclusion was reached. If the EPA has come to this conclusion, they should submit a detailed report which cites the particular data used, the methods employed, and the analysis which leads to the conclusion. The brief paragraph posted on the EPA website is merely conclusory and should not be considered by the CDPH. Additionally, EPA qualifies their position by saying they adopt the conclusion only "if monitoring data collected over the last year represent typical levels". There has been no evidence that this does represent typical levels. The monitoring data should be compared with the data about how much material was processed by the shredder on any given day. Sims is allowed to shred 3,000 gross tonnes of material per day, however if they have limited their daily capacity during the past year of air monitoring so that the particulate in the air would not exceed standards, this should not be considered what the "typical levels" of air pollution would be. (e.g. If Sims is allowed under their permit to shred 3000 gross tonnes of material per day, but has limited daily shredding to 1000 gross tonnes of material per day during air monitoring this will not show what air pollution levels will be when they reach their allowable limit of 3000 gross tonnes of material per day.

EPA also claims that they were able to reach their conclusion that the community will not see any negative short- or long-term health effects by comparing "monitoring results to current health benchmarks. This does not constitute a proper Risk Assessment, is methodologically flawed, does not differentiate between adults and children, and utilizes no localized or community specific factors. For these reasons the conclusion reached by EPA should be disregarded by CDPH. EPA was also silent on the impact of Sims being located in close

proximity to multiple schools and what role this factor might play in the risk calculation for children living or attending school in the area.

New Special Conditions is Not Enough to Protect Pilsen Residents

CDPH has a long history of failing hold Sims responsible for violations of the Chicago Municipal Code and the LRF rules. CDPH has failed to properly exercise their enforcement powers against Sims for violations of the Chicago Municipal Code and the LRF rules. CDPH has failed to enforce the conditions placed upon Sims in the permit which they are currently operating under. For these reasons, additional restrictions within a permit granted to Sims will not be adequate to protect the residents of Pilsen from the harms of Sims. CDPH does not enforce the current restrictions placed upon Sims in their operating permit so adding new and enhanced restrictions and Special Conditions will not be an adequate safeguard for the residents of Pilsen.

Draft Permit Specific Comments

Permit Duration

The cover letter of the Draft Permit says that “This permit allows for the operation of the Facility from **November 16th, 2021, to November 15th, 2024**, upon which time the permit shall terminate on its own terms. On or before **to November 15th, 2024**, the Permittee may apply to the CDPH for a new operating permit for the following year.” If CDPH does intend to issue a permit to Sims giving them a very short term permit is preferable to a long term permit. According to this draft, Sims would have a new operating permit for only part of the month of November 2024. Talking to Pilsen community members, they like the idea that Sims will have to again file for a new permit almost immediately. The duration of the permit is such an important part of this Draft Permit, that if CDPH did not intend to issue a permit which would expire in November of 2024 then a new Draft Permit should be made public and a new comment period should be opened. It is obvious from this Draft Permit that CDPH intends to only issue a very short term permit to Sims before requiring them to apply again for an operating permit. Many Pilsen residents would have doubtless provided comment on the Draft Permit if the Draft Permit expressed an intention by CDPH to issue a permit with a longer duration than the one shown here.

Applicable Law

The third paragraph of the Draft Permit Cover Letter states that Sims must “fully comply” with the Municipal Code of Chicago and the Large Recycling Facility Rules, issued June 5th, 2020 (“LRF Rules”). The permit should also reflect that Sims is required to “fully comply” with the 2014 Recycling Facility Rules (Rules and Regulations for Recycling Facilities, March 2014).

Lack of Defined Sanctions

All requirements contained within the Draft Permit (with only a couple exceptions) read as aspirational and not mandatory due to a lack of sanction attached for failure to comply. Section 108 of Attachment B: Special Conditions (p 15) says “Failure to secure or maintain the permits, approvals, or authorizations under this subsection is grounds for suspension or revocation of this permit.”. Strong language like this allowing for the operating permit to be revoked if the specific

requirements of that section are not followed is rarely found in the permit. This implies that all other failures to follow the conditions of the permit would not result in the revocation of the permit. However these various other requirements do not include any alternate sanction should compliance be withheld.

Some examples include:

- Material Handling “When transporting material to and from the Facility, the material shall fit entirely within the truck or trailer.” (p 3)
- Attachment B: Special Conditions “The Facility may receive and process no more than 3,000 tons per day of recyclable materials...” (p 4)
- Attachment B: Special Conditions “The Permittee shall maintain a twenty (20) foot setback between any waterway river and any stockpiles, as measured from the edge of the stockpile closest to the waterway.” (p 8)
- Attachment B: Special Conditions “The Permittee shall maintain an inventory of all vehicles and equipment powered by a non-road diesel engine.” (p 14)

Even though the permit uses the language “shall” denoting that these things are compulsory, there is no sanction anticipated should Sims fall short. What happens is material in transport does not fit entirely within a truck or trailer. If Sims will not lose their permit and there is no other sanction included is the requirement useless?

If Sims processes more than 3,000 tins per day, what happens?

If Sims does not maintain a 20 foot setback from the river, what happens?

If an inventory of diesel vehicles and equipment is not maintained, or is inadequately or improperly maintained, what happens?

The entire permit reads this way and leaves the public with little faith that these things will actually be enforced. Both because CDPH has a track record of failing to enforce their own rules and requirements, but also because the permit itself does not include punitive actions should there be a failure in one of these specific areas.

Permitting the Stationary Shear Now Encourages Law-Breaking

The Stationary Shear which Sims constructed and operated without permission from CDPH or the IL EPA should not be included among the pieces of equipment Sims is allowed to operate under their permit. On Page 5 of the Draft Permit, Attachment B: Special Conditions, Table One lists all of the equipment which Sims is allowed to operate under the (soon to be issued) permit. In Table One a “SHEAR” is included. This is the first time Sims has requested permission to operate this piece of equipment. Sims’ current permit does not include this piece of equipment. Sims requested no variance from CDPH to operate this piece of equipment. Sims has not submitted any permit amendments to their currently held operating permit related to the installation and operation of a Stationary Shear. Sims has not sought a modification permit as required when new equipment is installed. Sims has sought a permit renewal when they should be seeking a Modification Permit. Sims constructed the Stationary Shear and has operated it for years without any approval from CDPH and without following the law and its requirements.

If Sims can simply install and operate an emission causing device without first seeking permission from State and Local regulators but nevertheless get permission to operate the device the next time they want to renew their permit, the Chicago Municipal Code and the CDPH LRF Rules are rendered meaningless and a joke. Rewarding this brand of lawlessness is unconscionable and not in the best interest of the people of Chicago or the Residents of Pilsen.

Other Powers CDPH Could Use

Sims has engaged in actions which are grounds for Permit Revocation

“5.0 Grounds for Permit Revocation or Suspension. In accordance with Section 11-4-030 of the Code, and the notice and hearing provisions referenced therein, the Commissioner may revoke, suspend, or specially condition a recycling facility permit at any time if the permitted person or entity, any owner or officer of the permitted entity, or any person having control of the permitted entity or any of its operations, has:

- (1) Violated any provision of Chapter 11-4 of the Code relevant to the permit or any regulation promulgated thereunder;
- (2) Violated any term or condition of the Recycling Facility Permit;
- (3) Violated any provision of the Chicago Zoning Ordinance relevant to the permit or any regulation promulgated thereunder; or
- (4) Knowingly submitted a materially false or inaccurate statement in the permit application or any other document submitted to the Commissioner in support of such permit application.”²¹

The Chicago Municipal Code also provides a mechanism by which a LRF Permit can be revoked:

“In addition to the penalties provided in this section, in addition to the grounds for permit revocation provided elsewhere in this chapter, and in addition to any special permit condition imposed during the issuance of a permit or authorization, the commissioner may revoke, suspend or specially condition, a permit or written authorization, at any time if the permitted person or entity, any owner or officer of the permitted entity, or any person having control of the permitted entity or any of its operations, has:

- (1) violated any provisions of this chapter relevant to the permit or authorization or any regulation promulgated thereunder;
- (2) violated any term or condition of the permit or authorization;
- (3) violated the Chicago Zoning Ordinance relevant to the permit or authorization or any regulation promulgated thereunder; or
- (4) knowingly submitted a materially false or inaccurate statement in the permit or authorization application or any other document submitted to the commissioner in support of such application.”

²¹ Section 5.0, City of Chicago Department of Public Health - Rules and Regulations for Recycling Facilities, March 2014

(d) In addition to the penalties provided in this section, the commissioner may issue an emergency or non-emergency cessation or abatement order in accordance with the provisions of Section 11-4-025 of this Code.²²

Sims has violated state, federal, and Chicago local laws numerous times since 2016. The IL AG suit against Sims evidences multiple ways in which Sims has acted in bad faith, broke the law, and submitted false information to CDPH as well as state and federal regulators. The installation and operation of the Stationary Shear is a glaring example of this type of continued and wanton conduct. For this reason, permit revocation is appropriate.

CDPH also has the power to issue an Emergency or Non-Emergency Cessation Order

“In addition to the penalties provided in this section, the commissioner may issue an emergency or non-emergency cessation or abatement order in accordance with the provisions of Section 11-4-025 of this Code.”²³

The Chicago Municipal Code allows CDPH to order polluters to cease operations when their activities constitute a public nuisance. The commissioner of CDPH can issue an order for emergency cessation or abatement:

“Emergency cessation and abatement.

(1) Emergency cessation – Authority. The Commissioner is hereby authorized to issue an emergency cessation order to any person who the Commissioner concludes is (i) causing, creating or contributing to any activity or condition that poses an imminent and substantial risk to the public health or safety or to the environment; or (ii) operating a facility or conducting an activity without a required permit or other written authorization issued by the Commissioner.

(2) Emergency abatement – Authority. In the event that the Commissioner concludes that any person is causing, creating or contributing to any activity or condition that has created, or is creating, an imminent and substantial risk to the public health or safety or to the environment, then the Commissioner may order such person to abate the risk within a time frame prescribed by the Commissioner.”²⁴

The Commissioner also has the power to issue orders of cessation or abatement when there is a public nuisance which does not constitute an emergency:

“Non-emergency cessation and non-emergency abatement.

(1) Non-emergency cessation – Authority. The Commissioner is hereby authorized to issue a non-emergency cessation order to any person, in the event that the Commissioner determines that any such person is violating any of the provisions of this Code which are under the jurisdiction of the Commissioner or the rules promulgated thereunder or the conditions of any permit or authorization issued thereunder, but such violation does not pose an imminent and substantial risk to the public health or safety or to the environment as defined in subsection (a)(1) above.

(2) Non-emergency abatement – Authority.

²² Chicago Municipal Code 11-4-030(c)

²³ Chicago Municipal Code 11-4-030(d)

²⁴ Chicago Municipal Code 11-4-025(b)

(A) If the Commissioner determines that any person is violating any of the provisions of this Code which are under the jurisdiction of the Commissioner or the rules promulgated thereunder or the conditions of any permit or authorization issued thereunder, but such violation has not created, or is not creating, an imminent and substantial risk to the public health or safety or to the environment as defined in subsection (a)(1) above, then the Commissioner may provide the person with a written order to address and correct the violation(s) within a time frame prescribed by the Commissioner.”²⁵

Sims history and repeated actions of ignoring laws and regulations meant to protect the public from environmental harms constitutes “an imminent and substantial risk to the public health or safety or to the environment”. Use of the Commissioner’s power to issue an emergency cessation or abatement order would be appropriate. Should the Commissioner not believe the actions of Sims represent “an imminent and substantial risk to the public health” or “the environment”, a non-emergency cessation or abatement order would certainly be appropriate.

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²⁵ Chicago Municipal Code 11-4-025(c)