

October 22, 2021

ATTORNEY GENERAL RAOUL FILES LAWSUIT AND INTERIM ORDER AGAINST SIMS METAL MANAGEMENT

Chicago — Attorney General Kwame Raoul today announced a lawsuit against Metal Management Midwest Inc. d/b/a Sims Metal Management (Sims) for failing to demonstrate a minimum threshold reduction in uncontrolled emissions from the company's metal shredding and recycling facility. Raoul also announced that the court entered an agreed interim order that requires Sims to develop and implement a control system designed to achieve an immediate overall reduction in uncontrolled emissions.

"Sims' actions created a public health risk by exposing the community to uncontrolled emissions from its facility," Raoul said. "We have seen the damage these actions can cause in environmental justice communities, and I am committed to holding Sims accountable for endangering public health and will work to ensure they comply with emissions reductions requirements."

[Raoul's lawsuit](#) is based on a referral from the Illinois Environmental Protection Agency (IEPA).

"Based upon results from testing called for by the Illinois EPA, this matter was referred to the Attorney General's office to ensure that protections be put into place to address emissions concerns," said Illinois EPA Director John Kim. "The location of this facility in an environmental justice community reinforces the need for careful oversight of pollution sources such as this."

Sims owns and operates a metal shredding and recycling facility located in the Little Village neighborhood in Chicago. Sims receives, stores, recycles and ships ferrous and non-ferrous recyclable metallic materials at its facility, including end-of-life vehicles, major appliances and other post-consumer sheet metal and metal clips. These materials are processed through a hammermill shredder that emits volatile organic material (VOM) into the environment. On Jan. 22, 2019, Sims submitted an application for a Federally Enforceable State Operating Permit (FESOP) to the IEPA, as required by a previously entered administrative consent order with the United States Environmental Protection Agency. As part of its review of the application, the IEPA requested a copy of emissions testing results also required by the previously entered federal order. Based on a review of those results, the IEPA requested Sims initiate additional testing, with proof-of-concept emissions capture test on the shredder on May 13 to 14, 2021.

In the lawsuit, filed in Cook County Circuit Court, Raoul alleges that the results of the May 2021 emissions capture test revealed the shredder was achieving less than 50% estimated capture efficiency, which was below mandated emissions control requirements of at least 81%. Raoul argues that by failing to demonstrate an overall reduction in VOM emissions, Sims violated the Illinois Environmental Protection Act and Illinois Pollution Control Board Air Pollution Regulations, and jeopardized public health and the environment. Sims' facility is located in an area designated by the IEPA as an area of environmental justice concern because it is a community with a percentage of low income and/or minority residents that is greater than twice the statewide average.

[The agreed interim](#) order, entered today, requires Sims to develop and implement a control system designed to achieve an overall reduction in uncontrolled VOM emissions of at least 81% from the shredder at the facility. Sims also will be required to construct a control system to achieve emissions reduction compliance, as approved by the IEPA and continue to conduct emissions testing following construction to ensure uncontrolled emissions are reduced by at least 81%.

Assistant Attorneys General Arlene Haas and Daniel Robertson are handling the case for Raoul's Environmental Enforcement Division.

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

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.)

15213756

No. 2021CH05279

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 Complaint, Defendant Sims was and is an Illinois corporation in good standing.

4. At all times relevant to this 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”). The Facility is located in a community the Illinois EPA has designated as an environmental justice area.

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, 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’ 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.:

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.

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
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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

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

v.)

No. 2021-CH-05279

METAL MANAGEMENT MIDWEST,)
INC., d/b/a SIMS METAL)
MANAGEMENT, an Illinois)
corporation,)
)
Defendant.)

AGREED PRELIMINARY INJUNCTION ORDER

This cause coming before this Court by agreement of the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and the Defendant, METAL MANAGEMENT MIDWEST, INC., d/b/a SIMS METAL MANAGEMENT, due notice having been given, the Court having jurisdiction over the parties and the subject matter herein, and the Court otherwise being duly advised in the premises;

NOW THEREFORE, the Plaintiff having alleged that the Defendant has violated the Illinois Environmental Protection Act (“Act”) and Illinois Pollution Control Board (“Board”) regulations and that a preliminary injunction should issue pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), to restrain the violations; and the parties having agreed to the entry of this Agreed Preliminary Injunction Order (“Agreed Order”), the Court enters the following preliminary injunction pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), which shall remain in effect until further order of this Court.

I. BACKGROUND

1. On October 15, 2021, the Plaintiff filed its Complaint for Injunctive Relief and Civil Penalties (“Complaint”) against the Defendant.

2. The Defendant, an Illinois corporation, owns and operates a metal shredding and recycling facility at 2500 South Paulina Street, Chicago, Illinois (“Facility”).

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

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

5. The Plaintiff alleges in its Complaint that the Defendant, by failing to demonstrate that its shredding operations have achieved an overall reduction in uncontrolled volatile organic material (“VOM”) emissions of at least 81 percent, has violated and continues to violate 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).

II. GENERAL PROVISIONS

1. This Agreed Order is not a final resolution of the merits of the Plaintiff’s Complaint, but rather addresses the Plaintiff’s most immediate concerns regarding the Defendant’s failure to demonstrate an overall reduction in uncontrolled VOM emissions of at least 81 percent from its shredding operations alleged in the Complaint.

2. By entering into this Agreed Order and complying with its terms, the Defendant does not affirmatively admit the allegations of violation within the Complaint and referenced

above, and this Agreed Order and compliance therewith shall not be interpreted as including such admission.

3. The Defendant shall not claim that any report or any exhibits or attachments thereto, or any portion thereof, submitted to the Plaintiff or the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to this Agreed Order are subject to attorney-client privilege or constitute attorney work product.

4. This Agreed Order shall apply to and bind the parties hereto.

III. PRELIMINARY INJUNCTIVE RELIEF

1. The Defendant shall develop and implement a control system (“Control System”) designed to achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent from the hammermill shredder at the Facility, as required by 35 Ill. Adm. Code Part 218, Subpart TT.

2. Within sixty (60) days after the date of entry of this Agreed Order, the Defendant shall submit to the Illinois EPA, for review and approval, a construction permit application for the Control System (“Construction Permit Application”), developed by the Defendant to achieve compliance with 35 Ill. Adm. Code Part 218, Subpart TT. If the Illinois EPA requests additional information from the Defendant to process the Construction Permit Application, the Defendant shall provide its response by a date specified by the Illinois EPA in its request.

3. Following issuance of a construction permit for the Control System (“Construction Permit”) by the Illinois EPA, the Defendant shall construct the Control System in accordance with the timelines and requirements of the Illinois EPA-issued Construction Permit. If the Construction Permit Application submitted under Section III.2 above is deemed incomplete or denied by the Illinois EPA, then the Defendant shall resubmit a revised construction permit application

addressing the reasons specified by the Illinois EPA in its notice of permitting action within 30 days from receipt of the same.

4. After the Defendant completes construction of the Control System in accordance with the Construction Permit, the Defendant shall conduct emissions testing to demonstrate compliance with 35 Ill. Adm. Code Part 218, Subpart TT. The Defendant shall perform the testing in accordance with the issued Construction Permit, the applicable test methods, Title 35 of the Illinois Administrative Code and an Illinois EPA-approved test protocol and schedule for testing.

5. If the results of the testing performed pursuant to Section III.4 above do not demonstrate compliance with 35 Ill. Adm. Code Part 218, Subpart TT, the Defendant shall develop and implement a new or revised control system in accordance with the requirements of Sections III.1 through III.3 above, pursuant to a timeline established by the Illinois EPA, and shall conduct testing to demonstrate compliance with 35 Ill. Adm. Code Part 218, Subpart TT in accordance with Section III.4 above.

6. Within sixty (60) days after the Defendant has completed the testing required by Section III.4 and/or III.5 above and has demonstrated compliance with 35 Ill. Adm. Code Part 218, Subpart TT, the Defendant shall submit to the Illinois EPA, for review and approval, an update (“FESOP Update”) to its January 22, 2019 application for a Federally Enforceable State Operating Permit, which is pending with the Illinois EPA. The FESOP Update shall reflect the results of the testing performed pursuant to Section III.4 and/or III.5 above and any conditions imposed by the Construction Permit. If the Illinois EPA requests additional information from the Defendant to process the FESOP Update, the Defendant shall provide its response by a date specified by the Illinois EPA in its request.

IV. NOTICES

All submittals and correspondence relating to the requirements of this Agreed Order shall be directed to the following persons:

For the Plaintiff:

Daniel Robertson
Arlene Haas
Assistant Attorneys General
Illinois Attorney General's Office
Environmental Bureau North
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(312) 814-3532
(312) 814-3153
daniel.robertson@ilag.gov
arlene.haas@ilag.gov
(By electronic mail)

Maureen Wozniak
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794
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(By electronic mail)

Kent Mohr
Bureau of Air
Illinois Environmental Protection Agency
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For the Defendant:

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(By electronic mail)

Debbie Hays
Sims Limited
E.H.S. Business Partner, Central Region
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Chicago, Illinois 60608
(773) 650-6495
debbie.hays@simsmm.com
(By electronic mail)

V. DUTY TO COOPERATE

The Plaintiff and the Defendant shall cooperate with each other in the implementation of this Agreed Order.

VI. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreed Order in no way affects the responsibilities of the Defendant to comply with any other federal, state or local laws or regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2020), and the Board Regulations, 35 Ill. Adm. Code Part 101 *et seq.*

VII. STIPULATED PENALTIES

1. If the Defendant fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Agreed Order, the Defendant shall provide notice to the Plaintiff of each failure to comply with this Agreed Order and shall pay stipulated penalties in the amount of \$500.00 per day per violation for up to the first fifteen (15) days of violation, \$700.00 per day per violation for the next fifteen (15) days of violation, and \$1,000.00 per day per violation thereafter until such time that compliance is achieved. The Plaintiff may make a demand for stipulated penalties upon the Defendant for its noncompliance with this Agreed Order. However, failure by the Plaintiff to make this demand shall not relieve the Defendant of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Defendant knows or should have known of its noncompliance with any provision of this Agreed Order.

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2020), interest shall accrue on any penalty amount owed by the Defendant not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

3. The stipulated penalties shall be enforceable by the Plaintiff and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Agreed Order.

4. All stipulated penalty and interest payments shall be made by certified check, cashier's check or money order payable to Illinois EPA for deposit into the Environmental Protection Trust Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The case name and case number shall appear on the face of the certified check, cashier's check or money order. A copy of the certified check, cashier's check or money order and any transmittal letter shall be sent to:

Daniel Robertson
Arlene Haas
Assistant Attorneys General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

VIII. DISPUTE RESOLUTION

The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Agreed Order, informally and in good faith, within seven (7) days of a party providing notice to the other parties of such a dispute. If, however, a dispute arises concerning this Agreed Order that the parties are unable to resolve informally, any party to this Agreed Order may, by written motion, within three (3) days of conclusion of the informal resolution efforts, request that an evidentiary hearing be held before the Circuit Court of Cook County, Illinois, to resolve the dispute between the parties.

IX. FORCE MAJEURE

1. The Defendant may declare *force majeure* in appropriate circumstances as follows:

a. A *force majeure* event is an event arising solely beyond the control of the Defendant, which prevents the timely performance of any of the requirements of this Agreed Order. For the purposes of this Agreed Order, *force majeure* shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters, labor disputes beyond the reasonable control of the Defendant, or prohibitions imposed by any court having jurisdiction over the Defendant.

b. When, in the opinion of the Defendant, a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Agreed Order, the Defendant shall orally notify the Plaintiff within forty-eight (48) hours of the occurrence. Written notice shall be given to the Plaintiff as soon as practicable, but no later than ten (10) business days after the claimed occurrence.

c. Failure by the Defendant to comply with the notice requirements of the preceding paragraph shall render this *force majeure* provision voidable by the Plaintiff as to the specific event for which the Defendant has failed to comply with the notice requirement. If voided, this section shall be of no effect as to the particular event involved.

d. An increase in costs associated with implementing any requirement of this Agreed Order shall not, by itself, excuse the Defendant under the provisions of this Agreed Order from a failure to comply with such a requirement.

X. RIGHT OF ENTRY

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and

upon the Facility which is the subject of this Agreed Order, at all reasonable times for the purpose of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

XI. EXTENSIONS AND MODIFICATIONS

The parties may, by mutual consent, extend any compliance dates or modify the terms of this Agreed Order without leave of court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Agreed Order by reference. Any request for modification shall be made by the Defendant in writing and shall be independent of any other submittal made pursuant to this Agreed Order. Moreover, notice of a request for any proposed modification shall be provided to the Plaintiff's representatives listed in Section IV of this Agreed Order.

XII. RESERVATION OF RIGHTS

Nothing contained herein shall be deemed an admission of any wrongful conduct or violation of any applicable statute, law or regulations thereunder by the Defendant, nor a finding of fact or adjudication by this Court of any of the facts or claims contained in the Complaint. The Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter.

XIII. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter and shall consider any motion by the Plaintiff or the Defendant for the purposes of interpreting and enforcing the terms and conditions of this Agreed Order.

XIV. BINDING ON SUCCESSORS, ASSIGNS AND FUTURE OWNERS/OPERATORS

This Agreed Order shall be binding upon the Defendant, its successors, assigns and future owners and/or operators of the Facility.

XV. SIGNATURE

This Agreed Order may be signed in counterparts, all of which shall be considered one agreement.

XVI. STATUS CONFERENCE WITH THE COURT

This matter is set for status conference on February ²³18, 2022 at ^{10:15}~~9:30~~ a.m. without further notice. *The initial case management date of 2-15-22 is stricken. Defendant shall answer the Complaint on or before 12-17-21.*

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WHEREFORE the parties, by their representatives, enter into this Agreed Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

AGREED:

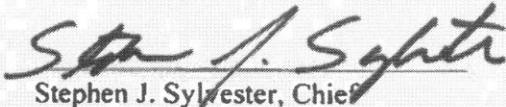
FOR THE PLAINTIFF:


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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

MATTHEW J. DUNN, Chief
Environmental/Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

By: 
Stephen J. Sylvester, Chief
Environmental Bureau
Assistant Attorney General

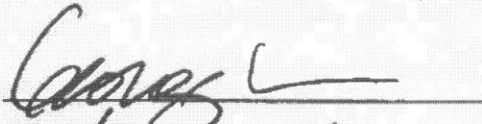
By: 
Charles W. Gunnarson
Chief Legal Counsel

Date: 10/8/21

Date: 10/8/21


FOR THE DEFENDANT:

METAL MANAGEMENT MIDWEST, INC.

BY: 
Name GEORGE MALAMIS
Title VICE PRESIDENT

Date: 10/8/21

ENTERED:



JUDGE Judge Pamela McLean Meyerson

Date: OCT 20 2021

Circuit Court - 2097