

SIMS Metal Management Comments 5/18/2023-10/26/2023

Date Comment Received	Comment	Attachments
10/23/2023	A simple Google search reveals that fires are constantly occurring at Sims facilities around the world. For example, according to the article below there have been NINE reports of fires at the same facility in New Zealand since 2017, including a massive fire that occurred earlier this year in which “Authorities told people to wear face masks and keep windows and doors shut amid concerns about the toxicity of the smoke.” During that fire, “residents as far as 19 km (OVER 10 MILES) away reported smelling smoke, described as like burning plastic.” With thousands of residents and students located less than a mile downwind of Sims in Pilsen and with that facility also catching fire earlier this year, how can CDPH continue allowing Sims to operate? https://www.nzherald.co.nz/nz/favona-fire-todays-scrap-metal-yard-blaze-the-ninth-in-five-years-fenz-reveals/DCFCI7SFH5GFRBALJKOPIQKCYQ/	n/a
10/23/2023	Yet another Sims facility, this one in England, just caught fire this past Sunday morning!!! Just one more example of a company that continues to prove it cannot operate safely and should be nowhere near an Environmental Justice community like Pilsen. https://www.expressandstar.com/news/local-hubs/sandwell/smethwick/2023/10/22/firefighters-tackle-blaze-in-smethwick-involving-25-tonnes-of-scrap-metal-and-materials/	n/a
10/16/2023	A fire last year at a Sims facility in California is yet another example of the company’s inability to operate in compliance with environmental regulations. Why does CDPH think Sims will operate its Chicago facility any differently than any of its other facilities that are repeatedly being cited and fined for environmental violations? The article below states “California’s Department of Toxic Substances Control expressed concern over the potential health impacts to the community, as the facility is located within two miles of day care centers, parks, hospitals, schools and homes...”. In the case of the Sims facility in Chicago, there are schools, homes, etc. MUCH closer than 2 miles away. People in Pilsen deserve to breathe clean air just as much as Californians. Deny the permit! https://climaterwc.com/2022/03/29/state-orders-sims-metal-to-address-possible-pollution-in-wake-of-redwood-city-fire/ State orders Sims Metal to address possible pollution in wake of Redwood City fire The state has ordered Sims Metal to investigate and clean up possible pollution related to its scrap metal recycling facility near the Port of Redwood City in the wake of a fire on March 9. California’s Department of Toxic Substances Control (DTSC) said in a statement Monday that the 12-acre recycling and shredding operation at 699 Seaport Blvd. has a “history of violating hazardous waste laws, including releasing elevated levels of lead, zinc and cadmium both on- and off-site.” It ordered the company to launch an investigation and cleanup evaluation that includes “recent and historical release at the facility, including any impacts from a March 9 fire.” DTSC expressed concern over the potential health impacts to the community, as the facility is located within two miles of day care centers, parks, hospitals, schools and homes, and adjacent to Redwood Creek, a trail and two islands of the Don Edwards San Francisco Bay National Wildlife Refuge. The area has seen increased visitors with fresh fish sales, live music and movies at the Port of Redwood City. Construction of a ferry terminal, restaurants, hotels and amenities are envisioned in the Port’s future. “DTSC has a responsibility to protect communities and the environment from companies and industries that pollute,” DTSC Director Dr. Meredith Williams said in a statement. “Metal recycling facilities have drawn our attention because of the potential exposure from harmful materials coming from these types of operations.” As recent as 2019, DTSC inspectors “discovered hazardous waste levels of toxic chemicals in several places within facility grounds,” according to DTSC. “Inspectors also found buildup of light fibrous materials, a hazardous substance, on the facility’s pavement and near its operations,” the agency said. The DTSC order also cites similar findings during inspections in 2012 of the facility’s border and neighboring sidewalk and properties, in addition to findings in 2011 by the U.S. Environmental Protection Agency (EPA) and a contractor for the adjacent Cargill salt operations at 295 Seaport Blvd. “Releases from the facility may have migrated toward soil, groundwater, air, neighboring properties, and surface waters such as Redwood Creek and the San Francisco Bay,” the order states. The order imposes a timeline for Sims Metal’s investigation into its environmental impact and	n/a

	subsequent mitigation efforts. A request for comment from Sims Metal has not yet been returned.	
10/6/2023	Is CDPH aware that Sims is violating their permitted hours of operation? Their CDPH recycling permit which expired in 2021 states that Sims is allowed to operate from 5:00 am to 10:00 pm Monday through Friday (17 hours) and 5:00 am to 5:00 pm on Saturday and Sunday. But the operating hours Sims provided to USEPA for May 2023 show that they routinely begin operating before 5:00 am and there are days when they operate for more than 17 hours. https://www.epa.gov/il/sims-metal-management#sept2023	n/a
9/20/2023	Is CDPH aware that Sims just purchased another recycling company for \$177 MILLION or that their sales revenue in 2022 was \$6.41 BILLION? Please explain to the people of Pilsen why CPDH is STILL allowing Sims to operate without pollution controls, particularly since the company can clearly afford it. https://www.businesswire.com/news/home/20230814540692/en/Sims-Metal-Acquires-Baltimore-Scrap-Corp	n/a
9/20/2023	Is CDPH aware that Sims recently settled a Class Action lawsuit for \$29.5 MILLION? The lawsuit alleges that: 1) Sims engaged in misleading and/or deceptive conduct and breached its continuous disclosure obligations in relation to its FY16 and FY18 financial performance; 2) the conduct of Sims caused its shares to trade on the ASX at inflated prices; and 3) persons who acquired Sims shares in the period between 23 July 2014 and 19 February 2016 (Claim Period) suffered compensable loss. This is one more example of why Sims cannot be trusted to operate a Large Recycling Facility in an Environmental Justice area. Deny their permit!!!! https://www.fedcourt.gov.au/__data/assets/pdf_file/0009/99945/NSD220-2019-Settlement-Notice.pdf	n/a
9/19/2023	Is CDPH aware that Sims' Illinois EPA Construction Permit has likely expired? That permit, which was issued on September 15, 2022, states that "Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time." According to the Illinois EPA permit section, Sims' Construction Permit has NOT been extended and it has NOT been voided by a newly issued permit. And certainly, construction or development on the project could not have started without CDPH first issuing an Air Pollution Control (APC) Permit. That is unless CDPH secretly issued an APC Permit to Sims without notifying the public.	n/a
9/13/2023	How is it possible that Sims is STILL operating a Large Recycling Facility, without a valid permit, for going on TWO YEARS?! And how is it possible that CDPH has not even scheduled a public meeting to address community concerns about Sims?! Are there any deadlines for CDPH to act on Sims' permit application or any deadlines for Sims to comply with CDPH's Large Recycling Facility Rules, which were established OVER FOUR YEARS AGO?! And why does the CDPH website STILL state "CDPH will not make a decision on Sims' Large Recycling Facility Permit renewal application until we receive air monitoring data from the U.S. EPA sufficient to evaluate both short and long-term health effects of the company's Pilsen facility."? EPA hasn't updated their website for Sims since April 13, FIVE MONTHS AGO!! Does it really take 5 months to evaluate data or is this just another delay tactic to make the people of Pilsen think that CDPH really cares about their health and well being? https://www.chicago.gov/city/en/depts/cdph/provdrs/environmental_health/svcs/community-environment-information.html#west-side	n/a
9/13/2023	Please have Kendra Graham (Inspector #249349) do more inspections of Sims since she is apparently the only CDPH inspector that isn't afraid to write tickets to a serial polluter. But please also have her look OFFSITE for the shredder fluff that is STILL blowing off Sims' property on a daily basis. ON 6/29/2023, CHICAGO DEPARTMENT OF PUBLIC HEALTH (CDPH) ENVIRONMENTAL ENGINEER KENDRA GRAHAM RESPONDED TO AN ANONYMOUS 311-COMPLAINT FOR COMMERCIAL DUST INDOORS AT 2500 S PAULINA WHICH IS THE ADDRESS FOR METAL MANAGEMENT MIDWEST DBA SIMS METAL MANAGEMENT. SIMS METAL MANAGEMENT IS A CLASS IVB RECYCLING FACILITY. UPON ARRIVAL TO THE COMPLAINT SITE ADDRESS, I OBSERVED LARGE AMOUNTS OF TRACK OUT ON THE SOUTHWESTERN CORNER OF BLUE ISLAND AVE AND PAULINA. I DROVE ONTO THE SIM'S METAL PROPERTY, WHERE I OBSERVED A MIST OF WATER COVER MY WINDSHIELD. I ENTERED THE MAIN OFFICE AND SPOKE WITH DEBORAH HAYS. I EXPLAINED TO HER THAT I RECEIVED A COMPLAINT FOR DUST AND OBSERVED LARGE AMOUNTS OF TRACK OUT AT THE CORNER OF BLUE ISLAND AND	n/a

	<p>PAULINA. I ALSO TOLD DEBORAH THAT I OBSERVED A STREET SWEEPER DRIVING NORTH ON PAULINA AWAY FROM SIMS'S PROPERTY ENTRANCE (PAULINA) CROSSING THE RAILROAD TRACKS AND TURNING AROUND BEFORE REACHING THE CORNER AT BLUE ISLAND. DEBORAH STATED THE SWEEPER SHOULD CONTINUE TO THE CROSS STREET OF BLUE ISLAND. DEBORAH ALSO EXPLAINED THAT THE DUST BOSS WATER CANON CAUSES THE GROUND TO BECOME SATURATED CREATING MUD AND AS TRUCKS ARE EXITING THE PROPERTY, THE MUD GETS TRACKED OUT ON THE TIRES. DEBORAH ALSO STATED SHE MET WITH TEAM MEMBERS REGARDING THE INSTALLATION OF A WHEEL WASH STATION TO HELP MINIMIZE THE TRACK OUT. BASED ON OBSERVATIONS MADE DURING THE INSPECTION AND THROUGH ADMISSION FROM DEBORAH, A NOTICE OF VIOLATION WILL BE SERVED VIA US MAIL TO THE AGENT LISTED ON THE ILLINOIS SECRETARY OF STATE CORPORATION FILE DETAIL REPORT, FOR VIOLATION OF 11-4-760(D) HANDLING AND STORAGE OF MATERIAL SUSCEPTIBLE TO BECOMING WINDBORNE; TRACK OUT ONTO PUBLIC WAY IS PROHIBITED. ADMINISTRATIVE HEARING IS 9/28/2023 AT 400 W SUPERIOR IN ROOM 112 AT 1:00 PM.</p>	
8/15/2023	<p>I noticed that a Table of Contents was recently added to the CDPH website under Community Environment Information. Why does the Table of Contents specifically list Southside Recycling and MAT Asphalt while Metal Management Midwest (Sims) is NOT listed? And why is the location of the Sims Large Recycling Facility Permit application near the bottom of the Table of Contents under "Permitting on Chicago's West Side"? Is this another attempt by the City to protect Sims and hide the fact that CDPH continues allowing Sims to operate a Large Recycling Facility without a permit and without any pollution controls on its shredder? And is the City's continued focus on the cumulative impact assessment a clever way to distract the public from the fact that CDPH is unwilling to enforce its own rules and protect the people of Pilsen from serial polluters like Sims? If CDPH really cared to assess the cumulative impact of industry in Pilsen, Sims would not be allowed to operate a Large Recycling Facility for nearly TWO YEARS without a permit. It would be nice if the City at least pretended like Pilsen lives matter!!!</p>	n/a
6/19/2023	<p>This past weekend while visiting Canal Origins Park and Canalport Riverwalk Park my wife and I crossed the Ashland Avenue bridge and we noticed shredder fluff from Sims all over the sidewalk right by the river. Why is CDPH no longer issuing violation notices to Sims for continually allowing their waste material to blow off site? And why has CDPH never issued a ticket to Sims for contaminating the Chicago River when some of that fluff is undoubtedly ending up in the river? Is it because CDPH supposedly considers a company's compliance history as part of the permit review process, and the City would look bad if a Permit were issued to a company with an extensive history of environmental violations? CDPH is obviously using EPA's air monitoring at Sims to delay a decision on a permit application that was submitted OVER 19 MONTHS AGO. But the violations at Sims that continue to occur every day are more than enough justification for CDPH to deny the Permit.</p>	n/a
6/16/2023	<p>Is CDPH aware that the Illinois Attorney General recently added THREE additional counts to the lawsuit against Sims for apparently "CONSTRUCTING AN EMISSION SOURCE WITHOUT A PERMIT?" The attached amended Complaint demonstrates, once again, that Sims is incapable of operating in compliance with environmental protection regulations and in a manner that is protective of human health and the environment. As CDPH is well aware based on its own Air Quality and Health Report, Sims is located in an area of the City (Pilsen) with the highest environmental burden. Why is CDPH STILL allowing Sims to operate given their history of environmental violations? Enough is enough! Sims should be shut down immediately and their Permit should be denied!</p>	Appendix A
5/30/2023	<p>I was reading comments about Sims and I saw the Chicago Fire Department Investigation Report for the large fire that occurred at Sims a couple months ago. According to the Report, the pile of scrap metal that caught fire and caused toxic fumes to blow into the neighborhood was approximately 40 FEET HIGH!!! Isn't it a violation of CDPH rules to store scrap metal in piles that high? Was Sims issued a ticket for that violation and if not why? Even if CDPH did not issue a ticket to Sims, this is a documented violation of CDPH Rules and just another example of Sims' inability to operate a recycling facility in compliance with the law. CDPH should deny the permit!!!!</p>	n/a
5/30/2023	<p>Yet another example of Sims' inability to operate "an inherently dangerous activity in a vulnerable community area" and one of the many reasons their permit should be denied!!! https://almanacnews.com/news/2022/03/28/state-orders-sims-metal-to-clean-up-pollution-</p>	n/a

	<p>weeks-after-fire-at-redwood-city-facility State orders Sims Metal to clean up pollution weeks after fire at Redwood City facility by Michelle Iracheta / Redwood City Pulse Just weeks after a 'big fire' broke out at the Redwood City Sims Metal, the State of California on Monday has ordered the recycling center to investigate the degree to which its operations may have caused pollution in the area from its facility and to clean it up, according to a news release from the state. In a letter addressed to Sims Metal dated March 24, 2022, the Department of Toxic Substances Control (DTSC) said it is requiring "corrective action to address a release of hazardous wastes" and that the state agency had conducted multiple inspections of the recycling facility and had determined that "releases of hazardous waste and hazardous waste constituents have occurred." Concentrations of lead, zinc and copper that "exceeded hazardous waste levels" were collected during inspections, the state agency said in the letter. The letter notes that pollution releases may have "migrated toward soil, groundwater, air, and neighboring properties, and surface waters, such as Redwood Creek and the San Francisco Bay," both of which are adjacent to the facility. Bair Island and Greco Islands are also nearby. DTSC said it is "concerned about the potential health impact" nearby daycare centers, parks hospitals, schools and homes, the press release said. "DTSC has a responsibility to protect communities and the environment from companies and industries that pollute," said DTSC Director Dr. Meredith Williams in a statement. "Metal recycling facilities have drawn our attention because of the potential exposure from harmful materials coming from these types of operations." The recycling center, a 12-acre recycling and shredding facility, receives, sorts, separates and stores bulk scrap for sale and exports, and operates a conveyor that deposits the material onto ships, according to ships, according to the news release. On March 9, firefighters responded to a blaze on Seaport Boulevard in Redwood City where "multiple explosions" involving propane cylinders and projectiles, according to officials. This wasn't the metal recycling plant's first blaze; a two-alarm fire, which broke out at the same Sims Metal in December 2013, was the second in two months. There were no injuries, but the fire burned for more than eight hours before being contained. While the order includes the March 9 fire, it is not the only cause for the investigation and cleanup. In fact, the enforcement order makes mention of similar actions taken by DTSC against metal recyclers and shredders statewide.</p>	
5/22/2023	<p>I recall that CDPH made it a point to emphasize all the organizations that opposed the permit for Southside Recycling including, among others, the Natural Resources Defense Council (NRDC), the Sierra Club and the Environmental Law and Policy Center. Has anyone at CDPH asked themselves why none of these groups have said ANYTHING in opposition to Sims or why none of them have said a word about a shredder with no pollution controls continuing to operate in Pilsen which, by NRDC's own admission, is an area of the City with the highest cumulative vulnerability? One of the groups that spoke out in opposition to Southside Recycling was Friends of the Chicago River in a 2020 Blog article (link below) which makes reference to CDPH inspections that show "untreated emissions" escaping General Iron's shredder. Yet in an all too familiar act of dishonesty, the article includes a picture that actually shows TREATED exhaust (steam) from one of General Iron's pollution control devices, NOT the shredder. The same year that article was posted, Friends of the Chicago River accepted money from Sims for its 2020 Chicago River Day (link below). This begs the question, why would Friends of the Chicago River publicly oppose a business (Southside Recycling) located on the Calumet River (NOT the Chicago River), while at the same time not say a word about a business (Sims) located on the South Branch of the Chicago River, particularly given Sims' extensive history of environmental violations? As the saying goes, follow the money! Has CDPH considered the possibility that Sims has "donated" to other environmental activist groups to buy their silence as they did with Friends of the Chicago River? After all, for a company with annual revenue in the billions of dollars, these types of "donations" are a drop in the bucket and money well spent. My guess is that CDPH won't consider the very real possibility that Sims is paying off the right people and organizations in deciding whether to issue a Large Recycling Facility (LRF) Permit to Sims. However, CDPH should, at the very least, go back and reread the comments submitted by environmental organizations about Southside Recycling (link below) and apply those same comments to Sims' LRF Permit application. https://www.chicagoriver.org/blog/2020/7/block-general-iron-s-move https://www.chicagoriver.org/get-involved/volunteer/chicago-river-day-</p>	n/a

	2020/chicago-river-day-2020-sponsors https://www.chicago.gov/city/en/sites/rmg-expansion/home/public-comments.html	
5/19/2023	<p>When CDPH finally gets around to holding a public meeting about Sims' application for a Large Recycling Facility Permit, please address the issue of the noxious odors constantly coming from Sims and how Sims plans to solve this never ending problem. And the next time the City sends Inspector 10937 to Sims in response to an odor complaint, please have someone explain to him/her/they that in order to detect an odor you need to be DOWNWIND of the source. In a report about the May 8 inspection at Sims (below), Inspector 10937 stated that "no metal odors were detected on Blue Island/Paulina and 25th Street." A review of the weather on May 8 (attached) reveals that the wind was blowing from the north to the south during the time of the inspection. Yet the inspector was located in a position hundreds of feet to the north/northwest of Sims' shredder. Therefore, it would have been physically impossible for anyone to detect odors from Sims at that location. If the inspector was actually interested to find out whether odors were traveling offsite from Sims, he/she/they would have gone to a location south of Sims' shredder, such as at Canalport Riverwalk Park on the other side of the Chicago River. Also, please explain to Inspector 10937 that there are no pollution controls on Sims' shredder so the "Steam Emissions" noted during the May 8 inspection also contain enormous amounts of Volatile Organic Compounds (VOCs) and Particulate Matter (PM). IT IS NOT MERELY STEAM! [INSPECTION LOG #: 19243681 08-MAY-23 12:15:00] 2500 S. PAULINA IN RESPONSE TO A COMPLAINT, I ARRIVED TO 2500 S. PAULINA, SIMS METAL MANAGEMENT AND CANVASSED FOR DUST AND DEBRIS EMISSIONS FROM THE SITE METAL PROCESSING ACTIVITIES. SIMS METAL MANAGEMENT OPERATIONS BUY AND PROCESS END-OF-LIFE METAL, ELECTRONIC, AND MUNICIPAL METAL MATERIALS, WHICH ARE THEN SOLD AS RAW MATERIALS TO STEEL MILLS AND SECONDARY SMELTERS. THE SIMS FACILITY HANDLES FERROUS AND NONFERROUS METALS. UPON ARRIVAL TO THE SITE I MET WITH CHRISTOPHER D., EHS SPECIALIST, AND ORLA K., ENV. SPECIALIST REGARDING THE ODOR COMPLAINT. ACCORDING TO CHRISTOPHER AND KELLY NO CHANGES OR SYSTEM MALFUNCTIONS WERE MADE OR REPORTED TO THE SITE PROCESSING OPERATIONS THAT WOULD HAVE TRIGGERED THE COMPLAINT. DURING THE INSPECTION I OBSERVED THE METAL CRUSHER IN USE WITH STEAM EMISSIONS PRODUCED FROM THE WATER SUPPRESSANT AND HEAT REACTION IN THE METAL CRUSHING PROCESS. WHILE ON SITE, I DETECTED MINIMAL METAL PROCESSING ODORS THAT WERE LIMITED TO THE FACILITY. NO METAL ODORS WERE DETECTED ON BLUE ISLAND AVENUE/PAULINA AND 25TH STREET.</p>	Appendix B

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*,

FILED DATE: 6/7/2023 9:11 AM 2021CH05279

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

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Local Climatological Data Daily Summary 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	Temperature (F)							Degree Days (base 65F)		Sun (LST)		Weather	Precipitation (in)			Pressure (inHg)		Wind	Maximum Wind Speed = MPH			
	Max	Min	Avg	Dep	ARH	ADP	AWB	Heat	Cool	Rise	Set		Weather Type	TLC	Snow Fall	Snow Depth	Avg Stn		Avg SL	Avg Speed	Direction = Degrees	
												Peak Speed						Peak Dir			Sust. Speed	Sust. Dir
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
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
Monthly Averages Totals																						
Departure from Normal (1981-2010)																						
Degree Days											Number of days with...											
Monthly				Season-to-date				Temperature				Precipitation		Snow		Weather						
Total		Departure		Total		Departure		Max		Min		>=0.01"		>=0.1"		>=1"		T-Storms		Heavy Fog		
Heating								>=90°		<=32°		<=32°		<=0°								
Cooling																						
Date of 5-sec to 3-sec wind equipment change								Sea Level Pressure								Greatest...						
N/A								Maximum		Date		Time		24-Hr...			Snowfall		Snow Depth			
								Minimum														
Date																						
Station Augmentation																						
Name: N/A Lat: N/A Lon: N/A Elevation: N/A Distance: N/A Elements: N/A Equipment: N/A																						

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	Visi- bility	Weather Type (see documentation) AU AW MW	Dry Bulb Temp		Wet Bulb Temp		Dew Point Temp		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)	Alti- meter Setting (inHg)
						(F)	(C)	(F)	(C)	(F)	(C)											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
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			29.86	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			29.88	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	-0.06	29.89	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	-0.06	29.89	FM-12		
08	0353	7	OVC:08 160	10.00		53	11.7	50	10.0	48	8.9	83	7	020		29.25			29.90	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			29.93	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	-0.06	29.96	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			29.92	FM-15	0.00	29.93
08	0753	7	FEW:02 13 FEW:02 130 SCT:04 150	10.00		56	13.3	52	11.1	49	9.4	77	7	080		29.26			29.92	FM-15	0.00	29.92
08	0853	7	FEW:02 65 BKN:07 95 OVC:08 110	8.00	-RA:02 RA RA	55	12.8	52	11.1	50	10.0	83	6	060		29.28	5	+0.03	29.93	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	+0.03	29.93	FM-12		
08	0953	7	FEW:02 70 OVC:08 85	4.00	-RA:02 BR:1 RA RA	54	12.2	52	11.1	51	10.6	90	9	040		29.25			29.91	FM-15	0.04	29.91
08	1024	7	BKN:07 7 BKN:07 75 OVC:08 95	5.00	-RA:02 BR:1 RA RA	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			29.93	FM-15	T	29.94
08	1153	7	OVC:08 6	4.00	-RA:02 BR:1 RA RA	55	12.8	53	11.7	52	11.1	90	7	010		29.28	3	0.00	29.93	FM-15	0.02	29.94
08	1218	7	SCT:04 6 BKN:07 10 OVC:08 15	4.00	-RA:02 BR:1 RA RA	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 BR:1 RA RA	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			29.93	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			29.93	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	0.00	29.94	FM-15	0.00	29.94

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 60001 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 FIBI (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 FIBI (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	MET13605/08/23 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	MET09305/08/23 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 FIBI (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	MET08605/08/23 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

Generated on 05/19/2023

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

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
01	T		T	T	T	T	T	T	T	T	0.01	0.01	0.01	0.01	T	0.01	T	T						01	
02																									02
03																									03
04																									04
05																									05
06				T	T				T	T	T	0.03									T	T			06
07																					0.01	0.04	T		07
08									0.02	0.04	T	0.02	T			T	T	T							08
09																									09
10																									10
11																									11
12								0.01	0.01			T			T	0.06	0.03	0.16	0.03	0.01					12
13						T	T																		13
14											T			T	T	T	T	T	T	0.01					14
15																									15
16																									16
17	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	M	17
Maximum Short Duration Precipitation																									
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
 s = Suspect
 * = Erroneous
 blank = No precipitation observed
 M = Missing