

## Sims Permit

Ivan M [REDACTED]

Tue 3/15/2022 10:12 AM

To: envcomments <envcomments@cityofchicago.org>

 1 attachments (3 MB)

attachment.pdf;

[Warning: External email]

Dear Mayor Lightfoot and Health Commissioner Arwady:

The Sims large recycling facility permit application must address the issue of environmental justice as the facility is located in an extremely burdened area of the City. A Health Impact Assessment needs to be conducted for the same reasons one was performed on the SE side. The problem is Sims should not be able to continue to pollute while this study is being conducted. It is known that they don't have pollution controls on their shredder. Thus if a shredder with pollution controls isn't allowed on the southeast side why is a shredder with no pollution controls allowed in Pilsen. Studies including the City's own Air Quality Health Report which is attached show how much environmental burden Pilsen is under. In fact a cumulative burden map prepared by the Natural Resources Defense Council shows that Pilsen has the highest environmental burden (10 out of 10) which is even higher than the SE side. And Pilsen is much more populated than the SE side. The people of Pilsen should matter. Consider the number of residents and children in the schools that are in close proximity to the facility. How can you let them continue to operate?

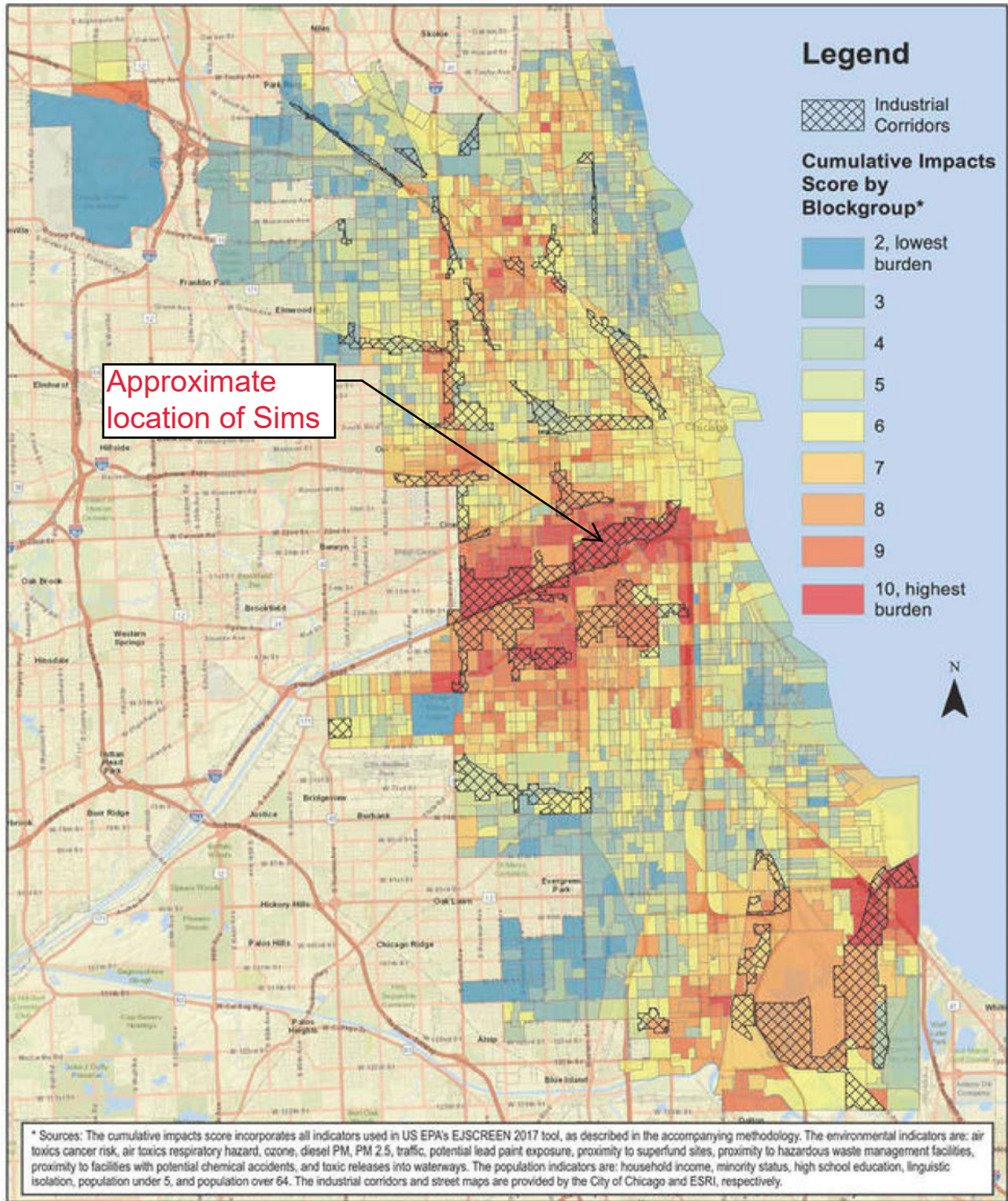
Regards,

Ivan Marin

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**Ivan Marin**

# Cumulative Burden of Environmental Exposures & Population Vulnerability in Chicago





[EXPERT BLOG](#) > [MELEAH GEERTSMA](#)

# New Map Shows Chicago Needs Environmental Justice Reforms

October 25, 2018

[Meleah Geertsma](#)

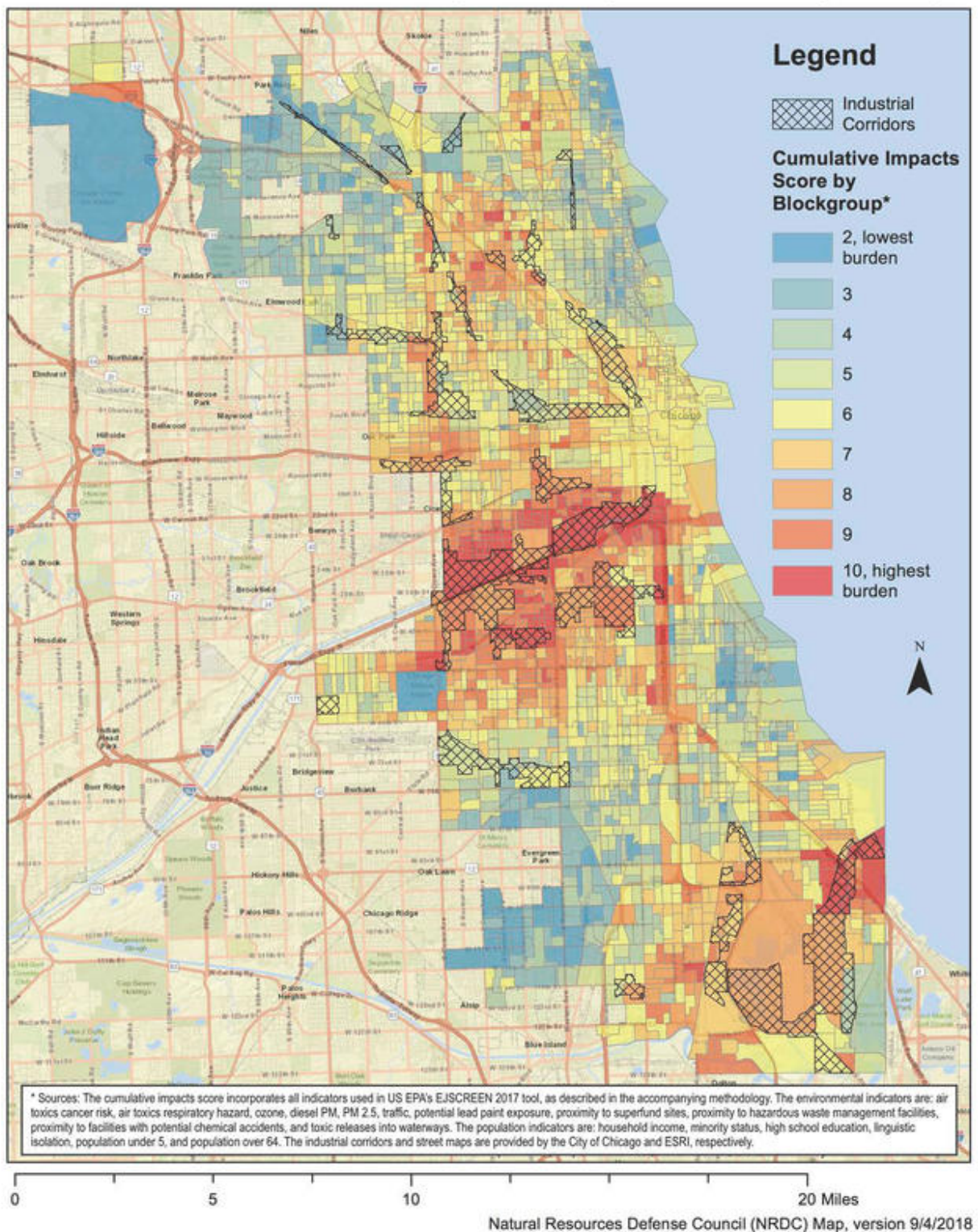
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### Cumulative Burden of Environmental Exposures & Population Vulnerability in Chicago



#### Chicago Cumulative Impacts Map

Yukvan Lam. NRDC

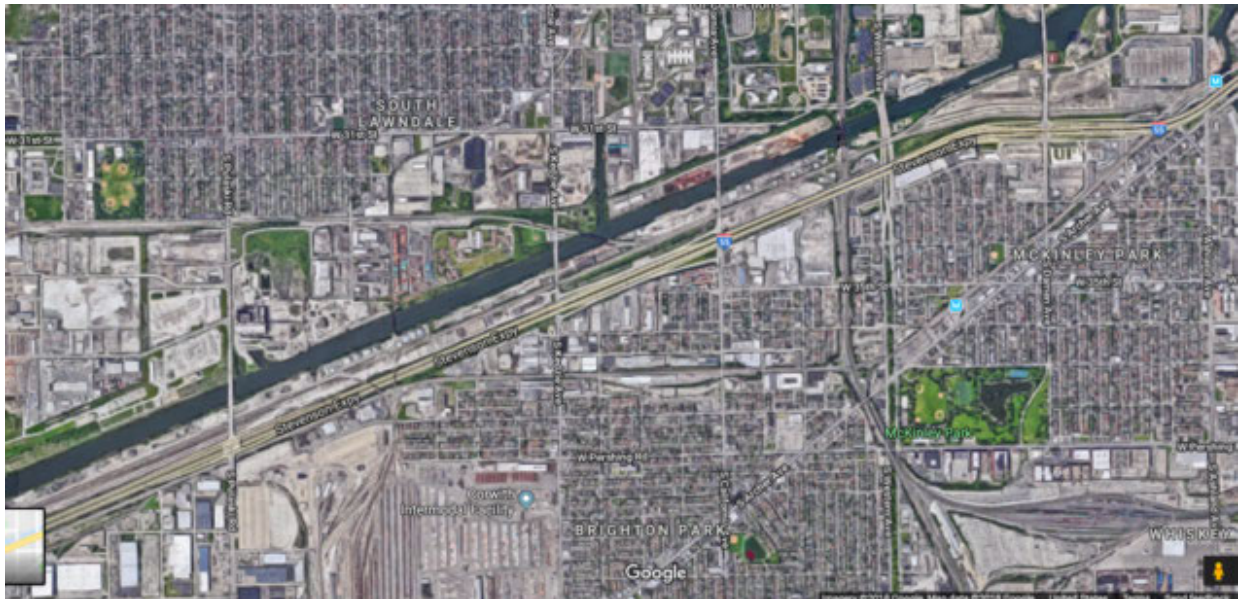
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and residents have been calling out for years: the high cumulative vulnerabilities to environmental pollution borne by environmental justice communities in the city. Updated version using 2019 EJSCREEN data available [here](#).

The analysis, conducted by NRDC Science Fellow [Yukyan Lam](#), uses data compiled by U.S. EPA and a methodology developed by academic researchers in conjunction with community groups and state agencies, as explained in more detail below. Mapped against the city's industrial corridors, the analysis supports the need for land use and public health reforms to address these zones filled with diesel trucks, dusty materials, noxious odors and other environmental hazards, located immediately adjacent to parks and dense residential neighborhoods.



### Chicago Southwest communities

#### Google Maps

In particular, the map calls attention to the cumulative vulnerabilities in Little Village, Pilsen, McKinley/Brighton Park and other nearby Southwest Chicago communities, as well as on the Southeast Side near the Calumet River and Lake Calumet.

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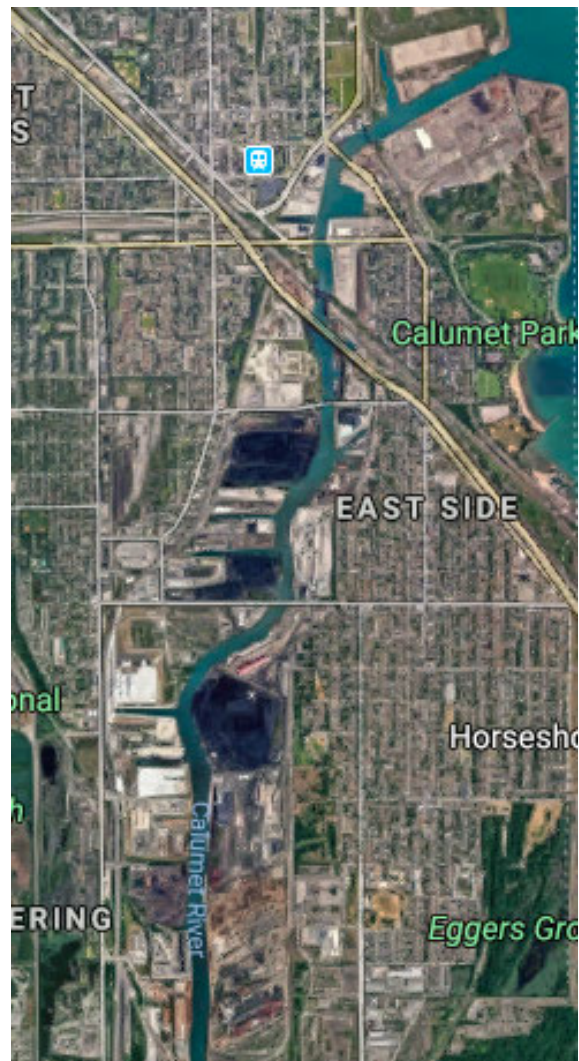
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## The Map

Our “cumulative impacts” map of Chicago takes a combined look at environmental conditions along with sociodemographic characteristics that are associated with increased vulnerability to such environmental pollution, comparing the resulting cumulative burden across census block groups. It is a screening tool that brings out disparities and highlights areas in the city that should be targeted for increased environmental monitoring, enhanced enforcement, and land use and public health reform.

Cumulative impacts analysis seeks to look at both environmental and sociodemographic factors because research has shown that the same environmental exposure is more likely to harm health or result in greater harm when it occurs in populations with certain sociodemographic indicators of vulnerability. For instance, young children experience greater personal exposure than adults despite the same level of ambient pollution, as they take in more air relative to their body volume. Seniors are more likely to have pre-existing heart, lung, and other health conditions, making their systems particularly vulnerable to pollution. Low-income communities and communities of color also may be more likely to have been burdened by other environmental exposures in the past and/or to experience higher rates of psychosocial stress than other communities



Chicago Southeast communities

Google Maps

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For this analysis, we relied on data from the 2017 version of [EJSCREEN](#), the U.S. EPA’s environmental justice screening tool. EJSCREEN 2017 collects information from government sources on 11 environmental conditions and 6 population characteristics:

| Environmental Factors                                 | Population Characteristics      |
|---|---------------------------------|
| Particulate Matter 2.5 (PM2.5)                        |                                 |
| Ozone   |                                 |
| Diesel Particulate Matter                             |                                 |
| Air Toxics Respiratory Hazard Index                   | Low income                      |
| Air Toxics Cancer Risk                                | Minority percentage             |
| Lead Paint Indicator                                  | Less than high school education |
| Traffic Proximity                                     | Linguistic isolation            |
| Proximity to Superfund (National Priority List) Sites | Children under age 5            |
| Proximity to Risk Management Plan Facilities          | Adults over age 64              |
| Proximity to Treatment Storage Disposal Facilities    |                                 |
| Wastewater Discharge Indicator                        |                                 |

While EJSCREEN compiles the data we used for our analysis, EJSCREEN itself is

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factors, poverty and minority status. In terms of spatial comparisons, EJSCREEN only allows for comparing individual block groups against the state and national levels, not other block groups.

NRDC's cumulative impacts analysis, in contrast, is an adapted version of the [Environmental Justice Screening Method](#) (EJSM). EJSM was developed by a group of California-based academic researchers in conjunction with community groups and with input from environmental agency officials in that state. Our analysis is based on EJSM, and generates a composite score of 2 to 10 taking into account all 17 EJSCREEN factors for each census block group within Chicago. Higher numbers indicate a higher cumulative burden, as shown by orange-red colors on the map, while lower numbers indicate lower cumulative burdens are shown in blues. More details on the methodology are available [here](#).

NRDC's analysis does NOT include health data, as most health data are not available at a fine enough spatial scale to look at block group differences within Chicago. Nor does it purport to assess the relative health risk of living in a given block group, or identify which sources of pollution are the most harmful or which sociodemographic factors render a community the most vulnerable. Even if such health data and risk assessments were available, no scenario of health outcomes would justify the disparate burdens on vulnerable communities indicated by our map.

## **Environmental Justice Reforms Needed**

No map is a definitive accounting of real conditions on the ground. The map we have created is intended as a screening tool for further investigation, including going to communities directly to speak with them about their experience of environmental pollution and vulnerabilities, as well as their ideas for making their communities safer and healthier.

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In contrast, last summer the [Mayor's office and Chicago City Council](#) re-zoned an industrial area in a wealthier part of the city to encourage high-end commercial and tech development, at the same time [incentivizing](#) industrial businesses to relocate to “receiving” industrial corridors like those in Little Village and the Southeast Side.

Now armed with the cumulative impacts map for the city and examples of reforms from cities like Los Angeles, NRDC stands with our partners at the [Little Village Environmental Justice Organization](#), [Southeast Environmental Task Force](#), [Southeast Side Coalition to Ban Petcoke](#) and other members of the [Chicago Environmental Justice Network](#) to ask City Council, outgoing Mayor Emanuel, and the city's soon-to-be-new mayor—what will you do to address these injustices?

#### ABOUT THE AUTHORS

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# **CITY OF CHICAGO**

## **Air Quality and Health Report**

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★ ★ ★ ★  
**2020**

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# Background

Mayor Lori Lightfoot is committed to advancing environmental justice and addressing the city's most pressing environmental challenges. From the [Chicago Climate Action Plan](#) to [Sustainable Chicago 2015](#), Chicago has been on a path to improve the quality of life for local residents, mitigate sources of pollution, and reduce the impacts of climate change. Central to these citywide efforts is recognizing that low-income communities and communities of color are disproportionately impacted by air pollution.

Chronic disease is the leading driver of Chicago's nine-year life expectancy gap between Black and white residents and decreases in life expectancy in the Latinx population. Air pollution can both increase risk of chronic illnesses like heart and lung diseases and contribute to worse outcomes for people living with certain health conditions. We must ensure that our environmental policies are focused on communities where residents are at highest risk.

This brief outlines how the Chicago Department of Public Health (CDPH) analyzed community-level data on air quality, health, and social factors to identify, for the first time, which neighborhoods must be prioritized for efforts to mitigate and reduce air pollution. In developing this report, we consulted with subject matter experts, advocacy groups, and community-based environmental justice organizations. We hope this analysis will serve as a resource for the City, researchers, advocates, residents, and other stakeholders in their continued efforts to take action on environmental health.

Our work builds on the City's commitment to health and racial equity through [Healthy Chicago 2.0](#) (and the upcoming Healthy Chicago 2025 plan), [Resilient Chicago](#), and initiatives led by local environmental justice organizations. The findings will help inform City decision-making and proactive planning – but this analysis is only a starting point. We expect to refine our methods and data sources over time, in close collaboration with community partners and other experts.

## AIR QUALITY IN CHICAGO

Due to federal efforts such as the Clean Air Act and local efforts such as cleaner City fleets and sustainable development practices, overall air quality in the Chicago area has improved over time.<sup>1</sup> Still, we have more work to do to ensure that all residents are breathing clean air.

There are a few key facts demonstrating air quality issues in Chicago. First, Cook County does not currently meet the federal standard for ozone.<sup>2</sup> According to the American Lung Association's 2019 "State of the Air" report, the Chicago area has seen an increase in days with high levels of ozone-polluted air – up to a yearly average of fifteen "unhealthy ozone days" from 2016-18, making Chicago the 16th most polluted city in the U.S. for ozone, up from 18th last year and 26th in 2017.<sup>3</sup> Additionally, fine particulate matter pollution remains high in Chicago. Although the Chicago area meets federal standards for fine particulate matter (PM<sub>2.5</sub>) pollution and levels have decreased by 40% since 2000, concentrations are still among the highest in the nation.<sup>4,5,6,7</sup>

<sup>1</sup> US EPA Air Quality – National Summary available at <https://www.epa.gov/air-trends/air-quality-national-summary>.

<sup>2</sup> US EPA Green Book, 8-Hour Ozone (2015) Designated Area/State Information available at <https://www3.epa.gov/airquality/greenbook/jbtc.html>.

<sup>3</sup> American Lung Association State of the Air 2020 available at <http://www.stateoftheair.org/assets/SOTA-2020.pdf>.

<sup>4</sup> See 78 FR 48103

<sup>5</sup> We would note that designations are based on average concentrations in a geography that includes parts of Indiana and suburban collar counties. The current NAAQS standard for fine particulate matter is 12 ug/m<sup>3</sup>, which is under review by the EPA.

<sup>6</sup> American Lung Association State of the Air 2020 available at <http://www.stateoftheair.org/assets/SOTA-2020.pdf>.

<sup>7</sup> See US EPA EJ Screen Mapper available at <https://ejscreen.epa.gov/mapper/>





## HOW AIR QUALITY AFFECTS HEALTH

Air pollution is harmful to Chicago residents' health and quality of life. Exposure to pollutants such as ozone and PM<sub>2.5</sub> is associated with increased risk of lung irritation, respiratory problems, cardiovascular disease, asthma, cancer, and early death. PM<sub>2.5</sub> pollution, which can penetrate deep into the lungs, is particularly damaging. Our estimates suggest that 5% of premature deaths in Chicago each year can be attributed to exposure to PM<sub>2.5</sub>.<sup>8</sup>

Communities with low socioeconomic status and high rates of chronic health conditions are especially vulnerable to the impacts of air pollution. In Chicago, with its history of segregation and disinvestment in Black and Latinx communities, the differences between neighborhoods can be stark. Some communities have rates of poverty, cardiovascular disease, and chronic obstructive pulmonary disease (COPD) that are ten times greater than others. Structural racism and economic hardship contribute to this gap, making it more likely for certain people to live in polluted communities and less likely to have access to health care and good jobs that can mitigate negative impacts.<sup>9</sup>

## DATA AND METHODS

To evaluate community-level vulnerability to pollution across Chicago, CDPH followed the methodology of the CalEnviroScreen 3.0, a report created by the California Environmental Protection Agency. We modified the methodology to account for Chicago's circumstances, including different limitations on data access and our initial focus on air quality.<sup>10</sup> We analyzed existing public data in the following categories at the census block group level (see Appendix for more details on data sources):

### •Pollution Burden

- Air Pollution:** Estimated concentrations of outdoor air pollutants. Indicators include particulate matter, ozone, diesel particulate, air toxics, and traffic proximity and volume.<sup>11</sup>
- Polluted Sites:** Adverse environmental conditions caused by pollutants such as existing or potential contamination. Indicators include proximity to hazardous waste facilities and Superfund sites.<sup>12</sup>

### •Population Characteristics

- Health Factors:** Biological and other physical characteristics that make people more likely to experience adverse health impacts from exposure to air pollution. Indicators include young and old age and prevalence of COPD, heart disease, asthma, and low-birth weight.<sup>13</sup>
- Social Factors:** Socioeconomic characteristics that result in increased vulnerability of some populations to air pollution. Indicators include poverty, race/ethnicity, education, limited English speaking, unemployment, and housing cost burden.<sup>14</sup>

<sup>8</sup> Estimated using methodology from Burnett R et al. *Global estimates of mortality associated with long-term exposure to outdoor fine particulate matter*. PNAS 115(33): 9592-7, 2018 <https://www.pnas.org/content/115/38/9592#T1> and local data from US Census and Chicago Health Atlas.

<sup>9</sup> American Lung Association, *Disparities in the Impact of Air Pollution* available at <https://www.lung.org/our-initiatives/healthy-air/outdoor-air-pollution/disparities.html>

<sup>10</sup> We also reviewed the methods for the NRDC Cumulative Burden Map

<sup>11</sup> EPA EJScreen (2019).

<sup>12</sup> EPA EJScreen (2019).

<sup>13</sup> CDC 500 Cities (2017) IDPH Division of Vital Records (2013-2017).

<sup>14</sup> US Census Bureau (2011-2015).



For each census block group, we calculated an Air Quality and Health Index score by following the steps in the table below. The score tells you which areas of Chicago are most vulnerable to the effects of air pollution, based on pollution burden and population characteristics.

|   |   |   |  |   |
|---|---|---|--|---|
| 1. Calculate the block group's score for each of the 21 individual indicators shown in the Appendix.          |   |   |  |   |
| 2. For each indicator, rank the block group compared to all others in Chicago.                                |   |   |  |   |
| 3. Calculate average rank of all indicators within a category's components.                                   | <b>Pollution Burden Category</b>  |   | <b>Population Characteristics Category</b>                                       |   |
|   | Average rank for all <b>Air Pollution</b> indicators =<br>Score A   | Average rank for all <b>Polluted Site</b> indicators =<br>Score B | Average rank for all <b>Health Factor</b> indicators =<br>Score C                | Average rank for all <b>Social Factor</b> indicators =<br>Score D |
| 4. Calculate an average score for the category.   | $(\text{Score A} \times \text{Score B} \times .5) / 2 = \text{Score E}$<br><i>Note: Polluted Site score is half-weighted because it reflects potential (not actual) exposure.</i> |   | $(\text{Score C} \times \text{Score D}) / 2 = \text{Score F}$                    |   |
| 5. Scale each category score relative to the census block group that has the highest score in that category.  | $(\text{Score E} / \text{Highest Block Group Score}) \times 10 = \text{Score G}$  |   | $(\text{Score F} / \text{Highest Block Group Score}) \times 10 = \text{Score H}$ |   |
| 6. Multiply the scaled category scores. Result is the Air Quality and Health Index Score for the block group. | $\text{Score G} \times \text{Score H} = \text{Air Quality and Health Index Score}$  |   |  |   |
| 7. Rank all block groups based on their Air Quality and Health Index scores.                                  |   |   |  |   |

To see detailed maps and learn more about our methods and underlying data, the **Air Quality and Health Data Pack** is available here ([link](#)).

## WHAT DID WE FIND?

The concentrations of certain types of air pollution such as particulate matter and ozone are fairly uniform across the city. Pollutants such as diesel particulate matter, on the other hand, are more prevalent in areas with significant traffic and industry. Additionally, health and social factors that make some people more vulnerable to the effects of pollution vary widely from one neighborhood to the next.

We visualized the pollution burden and population characteristics indicators in a map, with red representing the highest (worse) and green the lowest (better) Air Quality and Health Index scores. **The resulting map shows that the areas of greatest concern are primarily located on the South and West Sides of the city. In particular, parts of the city bisected by major highways with high concentrations of industry are over-burdened, experiencing high levels of both pollution and vulnerability.**

To inform interventions, future data analysis will attempt to drill down into the types of activities and businesses that may be contributing to air pollution, using sources such as an inventory of annual emissions reports.



## DATA LIMITATIONS

The Air Quality + Health Index map displays differences in the scores for each category by census block group compared to the scores for all other census block groups in Chicago. As such, it may magnify small differences. Additionally, some of our data sources have a substantial time lag. For these reasons, the map should not be used on its own to attribute sources of pollution or to make regulatory or enforcement decisions. We continue to work with experts and community scientists to explore innovative sources of more real-time data.

## NEXT STEPS FOR THE CITY OF CHICAGO

The City of Chicago is committed to systematic regulatory reform aimed at mitigating air pollution and protecting our communities, particularly those located near areas zoned for heavy manufacturing and Planned Manufacturing Districts (PMDs). The road to reform will begin with an exploration of the gaps in our policies and regulations. After identifying these gaps, the City will pursue updates to our zoning code, operating rules, permitting processes, and enforcement efforts. These reforms will be informed by public health data to help us understand conditions on the ground and the cumulative impacts of multiple sources of pollution. The strategy will also prioritize the proposals of advocates, community leaders, and community stakeholders who have local knowledge and expertise on how pollution impacts Chicago's neighborhoods.

Our reforms are part of Mayor Lightfoot's larger environmental vision to confront the city's most pressing environmental challenges, including legacy pollution left behind by former under-regulated industries, ongoing air pollution, and the compounding impacts of climate change, including several short-term changes:

**Large Recycling Rules:** The City released updated rules for large recycling facilities that became effective in June 2020. The rules incorporate a number of significant requirements, including air and noise assessment and monitoring, as well as other measures to minimize dust and pollution. These rules now are a condition for continued permitting of facilities and are enforceable through CDPH citations.

**Zoning Ordinance:** The City will pursue a zoning text amendment ordinance that will impose special use and Planned Development (PD) requirements for certain land uses, including manufacturing operations and recycling facilities. By shifting these heavy land uses from as-of-right developments to special use, we are ensuring a more stringent process to review where these intensive uses are located. The ordinance will also eliminate other uses such as mining operations, thereby permanently closing the door to their use in the City of Chicago.

**Environmental Equity Working Group:** The City will convene a board of community representatives, environmental leaders, and other local stakeholders who will advise the reform agenda.

Our additional steps in carrying this commitment forward will also include:

1. **Industrial Business Rule Reform:** Review and revision of other operating rules for industrial businesses.
2. **Cumulative Burden Analysis:** Development of an ordinance requiring new and more stringent permitting requirements to prevent cumulative burdens from disproportionately affecting certain neighborhoods.
3. **Enforcement and Inspection Reform:** Evaluation and updates to the current processes.

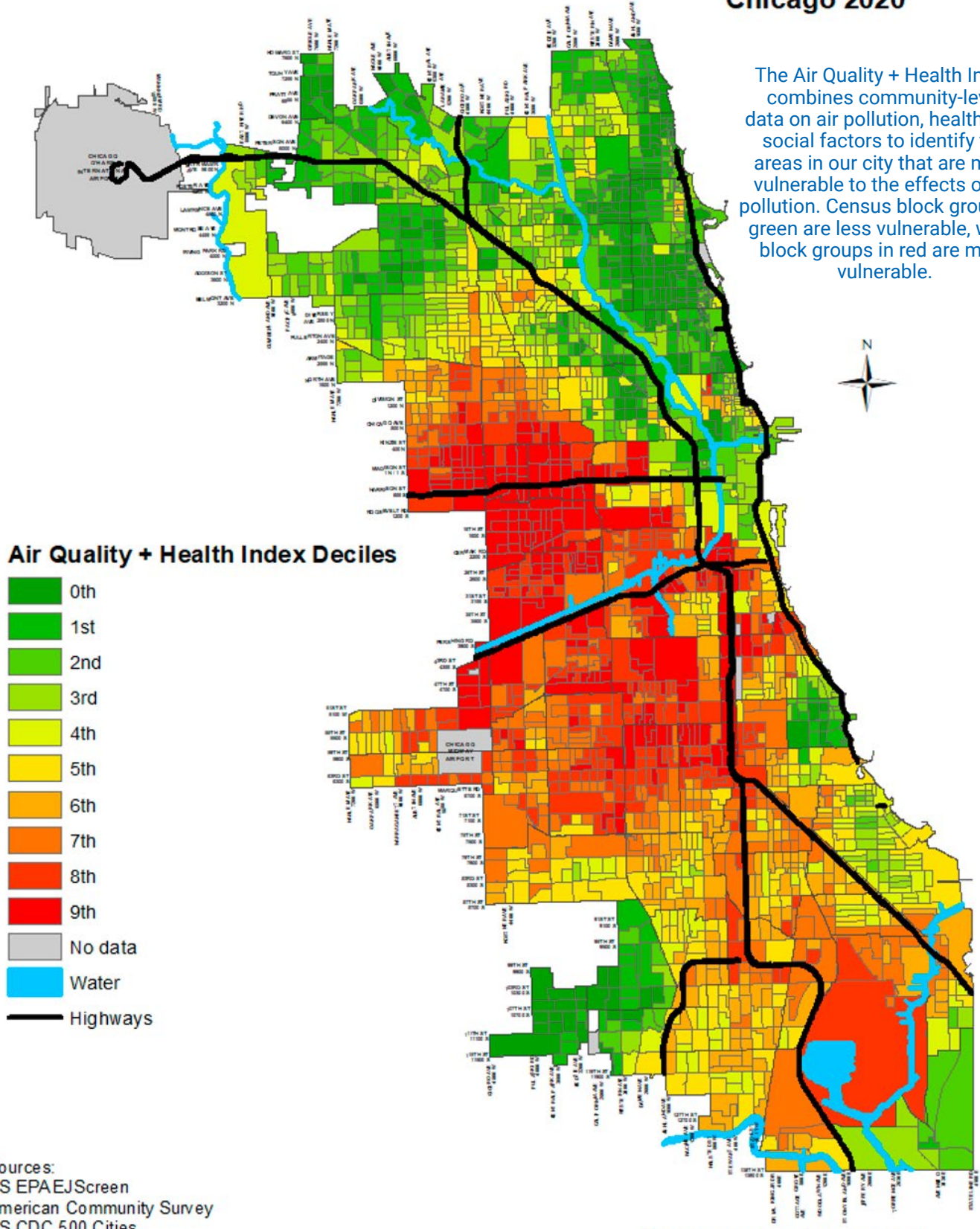
Collectively, these reforms will improve air quality citywide and better protect communities that are most affected by pollution - making us a healthier Chicago.





# Air Quality and Health Index, Chicago 2020

The Air Quality + Health Index combines community-level data on air pollution, health, and social factors to identify the areas in our city that are most vulnerable to the effects of air pollution. Census block groups in green are less vulnerable, while block groups in red are more vulnerable.



Sources:  
 US EPA EJScreen  
 American Community Survey  
 US CDC 500 Cities  
 IDPH Vital Statistics  
 Various years combined, 2011-2018

Created by Office of Epidemiology,  
 Chicago Department of Public Health, January, 2020



## APPENDIX: AIR QUALITY AND HEALTH INDICATOR LIST

| CATEGORY       | INDICATOR  | YEAR      | SOURCE   |
|----------------|--|-----------|--|
| Health Factors | Asthma Prevalence  | 2017      | CDC 500 Cities   |
|                | COPD prevalence  | 2017      | CDC 500 Cities   |
|                | Coronary Heart disease prevalence  | 2017      | CDC 500 Cities   |
|                | Low birth weight   | 2013-2017 | Illinois Department of Public Health Vital Records             |
|                | Young Age  | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Old Age  | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
| Social Factors | Percent Low Income   | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Percent Minority   | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Percent less than high school education                                  | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Linguistic isolation   | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Unemployment   | 2013-2017 | American Community Survey via EJSCREEN 2019                    |
|                | Housing burdened low income households                                   | 2013-2017 | HUD CHAS from American Community Survey                        |
| Air Pollution  | Particulate Matter   | 2016      | EPA Office of Air and Radiation via EJSCREEN 2019              |
|                | Ozone  | 2016      | EPA Office of Air and Radiation via EJSCREEN 2019              |
|                | Diesel Particulate Matter  | 2014      | National Air Toxics Assessment via EJSCREEN 2019               |
|                | Air Toxics Cancer Risk   | 2014      | National Air Toxics Assessment via EJSCREEN 2019               |
|                | Air Toxics Respiratory Hazard Index                                      | 2014      | National Air Toxics Assessment via EJSCREEN 2019               |
|                | Traffic Volume and Proximity   | 2017      | US Department of Transportation traffic data via EJSCREEN 2019 |
|                | Proximity to Risk Management Plan (RMP) sites                            | 2019      | EPA RMP database via EJSCREEN 2019                             |
| Polluted Sites | Proximity to Hazardous Waste Treatment, Storage, and Disposal Facilities | 2019      | EPA RCRAinfo database via EJSCREEN 2019                        |
|                | Proximity to National Priorities List, Superfund Program sites           | 2019      | EPA CERCLIS database via EJSCREEN 2019                         |









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**CITY OF CHICAGO**  
Air Quality and Health  
Report

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\* \* \* \*

## SIMS Permit

Debby Chagal [REDACTED]

Tue 3/15/2022 6:52 PM

To: envcomments <envcomments@cityofchicago.org>

📎 1 attachments (1 MB)

foia.pdf;

[Warning: External email]

Dear Mayor Lori Lightfoot and Department of Public Health Commissioner Allison Arwady:

A review of the attached correspondence between CDPH and attorneys for Sims reveals that CDPH planned to require that Sims install netting and misting cannons and conduct daily perimeter checks at least once daily to “**identify and clean up any visible debris that may have migrated from the Site.**” Apparently these requirements were originally part of a settlement agreement between Sims and the City but as time dragged on they were eventually removed from the agreement since CDPH “**determined that it doesn't make sense to proceed with the agreement as originally contemplated, considering we are now so close to the permit renewal.**” Based on the fact that auto fluff is still repeatedly “**migrating from the site**” according to health department inspectors, CDPH knowingly neglected to protect the health and environment of the people of Pilsen, and they continue to do so by allowing Sims to keep operating while in violation of CDPH's own rules and regulations. Why do the people of Lincoln park and the people of the southeast side matter more than the people of Pilsen? If the City truly cared about environmental justice and the residents of the City with the highest environmental burden, then Sims would not be allowed to operate. Please show your compassion for the people of Pilsen by demanding that Sims cease operations immediately and DO NOT issue their permit for a Large Recycling Facility!

Sincerely,

Debby Chagal

---

**From:** Mark LaRose <mlarose@laroseboscolaw.com>  
**Sent:** Tuesday, September 7, 2021 10:40 AM  
**To:** Jennifer Hesse  
**Cc:** Debbie Hays;George Malamis;Mary Karson  
**Subject:** Fw: Metal Management Midwest, Inc. / DPH Tickets  
**Attachments:** 9-2-2021 Letter to Jennifer Hesse - For Settlement Purposes Only.pdf; Revised 9-2-2021 comments to CDPH Revised Redlined Settlement Agreement\_Sims Metal Management (1).docx

[Warning: External email]

## FOR SETTLEMENT PURPOSES ONLY

Good Morning Jennifer,

Hope you had a nice holiday weekend. Just following up on the attached. Please confirm the tickets currently set for 9/9/2021 will be continued. As mentioned in my letter, we can set up a zoom call with our respective clients to go over any questions or issues. Look forward to hearing from you. Thanks.

Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

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**To:** jennifer.hesse@cityofchicago.org <jennifer.hesse@cityofchicago.org>  
**Cc:** George Malamis <george.malamis@simsmm.com>; Debbie Hays <debbie.hays@simsmm.com>; Mary Karson <mkarson@laroseboscolaw.com>  
**Sent:** Thursday, September 2, 2021, 09:41:47 AM CDT  
**Subject:** Metal Management Midwest, Inc. / DPH Tickets

## FOR SETTLEMENT PURPOSES ONLY

Good Morning Jennifer,

Please see the attached letter and the revised, redlined Settlement Agreement.



Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscoblaw.com](mailto:mlarose@laroseboscoblaw.com)

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MARK A. LAROSE \*  
JOSEPH A. BOSCO \*  
DAVID KOPPELMAN  
DAVID ROSEMEYER  
DAVID J. ARON  
COSTA DIAMOND  
MARISSA R. ALASKA  
RAY WILLIS WELCHER



**LAROSE & BOSCO, LTD.**  
ATTORNEYS AT LAW

200 N. LASALLE STREET  
SUITE 2810  
CHICAGO, IL 60601  
P: (312) 642-4414  
F: (312) 642-0434

135 S. WHITTAKER  
NEW BUFFALO, MI 49117  
P: (269) 469-8440  
F: (269) 469-8442

OF COUNSEL

HON. ANTHONY J. BOSCO (1928-2008)

JOSEPH G. ALIOTO \*\*

ALBERTO QUIROS JAEN\*\*\*

\* ADMITTED IN MICHIGAN ALSO  
\*\* ADMITTED IN WISCONSIN ONLY  
\*\*\* ADMITTED IN PANAMA ONLY

September 2, 2021

**FOR SETTLEMENT PURPOSES ONLY**

**By E-Mail:** [Jennifer.hesse@cityofchicago.org](mailto:Jennifer.hesse@cityofchicago.org)

Jennifer Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604

**RE: Metal Management Midwest, Inc. / DPH Tickets**

Dear Jennifer,

**This letter is written for settlement purposes only and is not intended to be used for any other purpose.**

Thank you for your patience on this matter, and thank you for your well wishes during my recovery. My health is getting better every day.

I think we are getting close on the settlement agreement. Enclosed is a revised, redlined Settlement Agreement setting forth a few additional comments, as follows:

(1) I think the fine is significantly too high given the affirmative compliance measures. I propose to knock that down to \$10,000.

(2) As part of Sims' safety policy, all visitors are to be escorted while on Sims' property. Access will never be denied as long as it can be done safely. It is also crucially important that any time city inspectors come onto the site, they announce their presence and be accompanied around the yard by a Sims' representative. You deleted that portion, but it needs to be put back in. One of the reasons I believe some of these violations were noted was because no one even told us that the inspector was present, and no one was able to observe the conditions and perhaps immediately correct anything that was wrong.

(3) With regard to the misting cannons, they will need to be approved for water and electric. Therefore, we added a paragraph to say that the timeframes are subject to submissions of Sims' permit applications and final approval of same.

In addition, Sims will be relying on PM10 Monitors to show there is no dust problem when temperatures are freezing. We added to that section that Sims is not required to use the cannons if fugitive dust is already being suppressed during precipitation events "or when temperatures are freezing."

We would like to discuss paragraph 5g).

(4) The fencing material that will be used is an opaque material so we added that to paragraph 6. The "5 inches total for every 250 square feet" of netting seems a bit excessive. I added a provision that we can patch it pending a replacement piece and resume operations immediately.

I also added a paragraph that the netting will satisfy the fencing requirements as set forth in the CDPH's Rules for Large Recycling Facilities, a permit application under those rules, and any permit granted under those rules, and all of this shall occur without the need for any variance from existing ordinances, laws, rules or regulations.

(5) Finally, I added a Termination of Obligations provision.

Please discuss this with your client, and let's set up a zoom call with our respective clients to go over any questions or issues.

In the meantime, it is unlikely we will be able to finalize this agreement prior to the September 9<sup>th</sup> court date for the tickets, so please confirm you will get another continuance.

I appreciate the opportunity to finalize this matter and to move forward with Sims continuing to be a steward for the environment and a good neighbor to the Pilsen community.

If you have any questions, or are in need of additional information, please do not hesitate to contact me.

Very truly yours,

  
Mark A. LaRose  
[mlarose@laroseboscilaw.com](mailto:mlarose@laroseboscilaw.com)

MAL/mk  
Enclosure

cc: George Malamis ([George.malamis@simsmm.com](mailto:George.malamis@simsmm.com))  
Debbie Hays ([Debbie.hays@simsmm.com](mailto:Debbie.hays@simsmm.com))

[MAL REVISED 9/2/2021  
6/16/2021CDPH 5/26/2021]

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**IN THE CITY OF CHICAGO, ILLINOIS DEPARTMENT OF  
ADMINISTRATIVE HEARINGS  
ENVIRONMENTAL DIVISION**

|  |   |                              |
|--|---|------------------------------|
| <b>THE CITY OF CHICAGO</b> , a municipal corporation | ) |                              |
| (by the Department of Public Health),                | ) |                              |
|  | ) | <b>Docket No. 20DE000203</b> |
|  | ) | <b>20DE000296</b>            |
| Petitioner,  | ) | <b>20DE000304</b>            |
|  | ) | <b>20DE000305</b>            |
| v.   | ) | <b>20DE000306</b>            |
|  | ) | <b>20DE000457</b>            |
| <b>Metal Management Midwest, Inc. d/b/a</b>          | ) | <b>20DE000460</b>            |
| Sims Metal Management,                               | ) | <b>20DE000461</b>            |
| an Illinois corporation,                             | ) | <b>20DE000462</b>            |
|  | ) |                              |
|  | ) |                              |
| Respondent.  | ) |                              |
|  | ) |                              |

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT (“Agreement”) is entered into by and between the City of Chicago (“City”) and Metal Management Midwest, Inc. d/b/a Sims Metal Management (“Sims”) and shall become effective when fully executed by both parties to this Agreement (the “Effective Date”).

**WHEREAS**, the City is a municipal corporation incorporated under the Laws of the State of Illinois, and under Article VII of the Illinois Constitution, the City, as a home rule unit, has the authority to regulate environmental matters;

**WHEREAS**, Sims is a corporation registered under the Laws of the State of Illinois, and is engaged in business in Cook County, Illinois;

**WHEREAS**, Sims owns the property located at 2500 S. Paulina Avenue, Chicago, Illinois (the “Site”), including the metal recycling operations located on the Site, and operates said Site as a Class IVB recycling facility, holding Chicago Department of Health (“CDPH”) permit no. ENVREC104577;

**WHEREAS**, part of the Site (East of vacated Paulina Street) includes an area where Sims operates a metal shredder (the “Shredder Yard”);

**WHEREAS**, between March 6, 2020 and July 2, 2020, CDPH issued the below-listed Notices of Violation (“NOVs”) to Sims, citing Sims for violating the corresponding, below-listed sections and paragraphs of the Municipal Code of Chicago (“Code”) on the corresponding dates;

**WHEREAS**, said NOVs gave rise to cases in the City’s Department of Administrative Hearings, having the corresponding Docket Numbers listed below (“Cases”);

| <b>Case (Docket Number)</b> | <b>NOV(s)</b>            | <b>Violation Date</b> | <b>Code Sections and Paragraphs</b>                |
|-----------------------------|--------------------------|-----------------------|--|
| 20DE000305                  | E000034590<br>E000034591 | 3/6/20                | 11-4-620<br>11-4-760(a)<br>11-4-030(b)<br>11-4-730 |
| 20DE000203                  | E000034580               | 3/16/20               | 7-28-080<br>11-4-730                               |
| 20DE000304                  | E000034584<br>E000034583 | 3/24/20               | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000296                  | E000034585               | 3/27/20               | 7-28-080<br>11-4-730                               |
| 20DE000306                  | E000034586<br>E000035587 | 11/12/20              | 11-4-730<br>11-4-760(a)<br>7-28-080<br>11-4-030(b) |
| 20DE000460                  | E000037759<br>E000037760 | 6/10/20               | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |



|            |                          |         |  |
|------------|--------------------------|---------|--|
| 20DE000462 | E000037761<br>E000037762 | 6/12/20 | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000461 | E000037763<br>E000037764 | 6/16/20 | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000457 | E000038270               | 7/2/20  | 11-4-730<br>7-28-080                               |

**WHEREAS**, Sims denies CDPH’s allegations;

**WHEREAS**, Sims has agreed to make improvements to operations at the Site as specified below;

**WHEREAS**, both parties agree and acknowledge that this Agreement results from the desire of both parties to resolve these issues expeditiously and to avoid the costs that would be incurred and the uncertainty inherent to litigation; and

**WHEREAS**, this Agreement is intended by the parties to resolve solely the above-referenced Cases;

**THEREFORE**, in consideration of these recitals, which are deemed a material part of this Agreement, and of the mutual promises and covenants hereinafter set forth, the parties mutually warrant and agree as follows:

1. **WHEREAS Clauses.** The above “WHEREAS” clauses are incorporated as though fully set forth herein.
2. **Definitions.** All terms not specifically defined herein have the meanings set forth in Chapters 7-28 and 11-4 of the Code. The term *Shredder Yard* means the area where materials are handled and processed at and around the Newell Shredder, as delineated in Sims’s most recent permit application.

3. **Termination of Agreement.** This Agreement shall terminate upon the issuance by CDPH of a new or renewed recycling facility permit applicable to the Site.

4. ~~**\$10,000.00 \$20,000 Payment.**~~ In consideration for this Agreement, including paragraph 13 hereto, within 14 days of receipt of a payment invoice from CDPH, Sims must pay to the City, in the form of a cashier's or certified check made payable to the "City of Chicago," the total amount of ~~**\$10,000.00 (Ten Thousand Dollars and No/100). \$20,000- (Twenty Thousand Dollars and No/100).**~~

5. **Misting Cannons.** In consideration for this Agreement, including paragraph 13 hereto, Sims must, at its sole expense, add four dust control misting cannons, each with the ability to cover at least a 21,000-square-foot area ("Misting Coverage Area"), to better control dust and other material in the Shredder Yard at the Site. Additionally:

~~5.~~ a) Notwithstanding any timeframes set forth in this Paragraph 5, the City realizes that the mobile and permanent misting cannons will need to be approved for water and electric by the City Building Department or other department as assigned by CDPH, and therefore the timeframes are subject to prompt submission of permit applications by Sims and final approval of those applications.

~~a)b)~~ Sims must ensure that at least two misting cannons are permanently installed in the Shredder Yard, and fully operational, on or by the ninetieth (90<sup>th</sup>) calendar day after the Effective Date. Sims may have these two cannons temporarily located pending the results of its air dispersion modeling study, which Sims is required to complete by November 15, 2021 pursuant to Rule 3.9.21.1 of CDPH's Rules for Large Recycling Facilities ("Rules), after which Sims must permanently install these cannons at locations agreed to by the City in accordance with the conditions

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of permit ENVREC104577, but with locations subject to change based on Sims' observations of current conditions so long as Sims first obtains CDPH's approval.

b)c) Sims must ensure that at least two mobile misting cannons are in the Shredder Yard, and fully operational, on or by the ninetieth (90th) calendar day after the Effective Date.

e)d) Sims must properly maintain and operate all misting cannons in accordance with the manufacturer's specifications and the requirements of permit ENVREC104577. Sims shall not be required to use the cannons if fugitive dust is already being suppressed in compliance with the Rules during precipitation events, ~~or when temperatures are freezing. When the temperature falls below 32 degrees Fahrenheit, Sims must use Chemical Stabilizers and/or water heating systems to ensure that dust suppression continues or else suspend any dust-generating operations until such time as the cannons may be used again.~~

d)e) Sims must move the mobile misting cannons as necessary to accommodate shifts in wind direction.

e)f) Beginning on the 90<sup>th</sup> calendar date after the Effective Date or on the date the misting cannons are fully operational, whichever is earlier, Sims must not allow any material handling to occur in the Shredder Yard without utilizing the misting cannons, unless precipitation is providing dust suppression at least as effective as the misting cannons or when temperatures are freezing.

f)g) Beginning on the 90<sup>th</sup> calendar date after the Effective Date or on the date the misting cannons are fully operational, whichever is earlier, Sims must inspect each misting cannon daily to ensure it is fully operational and document each inspection

and its findings in a log book, spreadsheet or comparable means of documentation that it makes accessible to CDPH upon CDPH's request ("Findings Documentation").

~~g)h) No later than thirty (30) days after the Effective Date, Sims must submit to CDPH a request for a modification of its current recycling facility permit (ENVREC104577) specifying an alternative means of dust suppression in the event that, for any reason, a misting cannon becomes inoperable or is otherwise unable to provide the required dust suppression coverage. CDPH is not required to approve any request. If CDPH does not approve a request, Sims must submit a revised request, until CDPH approves a modification, **[WE DO NOT UNDERSTAND THIS PARAGRAPH. LET'S TALK]**~~

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~~h)i)~~ If for any reason a misting cannon becomes inoperable or otherwise unable to provide the required dust suppression coverage, at any time, for each Misting Coverage Area, Sims must use the CDPH-approved alternative means of dust suppression, pursuant to paragraph (g) above, to provide the required coverage in the Shredder Yard and/or cease material handling operations in the area that cannot be so misted. Sims must document such cessation in the Findings Documentation, and within five (5) business days notify CDPH by email to [envwastepermits@cityofchicago.org](mailto:envwastepermits@cityofchicago.org) ("CDPH Notification"). Once the misting cannon has been repaired or replaced with a misting cannon of the same make and same or subsequent model, Sims may resume its normal material handling operations with respect to the applicable area in the Shredder Yard.

6. **Netting.** No later than thirty (30) days after the Effective Date, Sims shall submit to

CDPH, for review and approval, a description of the netting required by this paragraph. In consideration for this Agreement, including paragraph 13 hereto, on or by the ninetieth (90<sup>th</sup>) calendar day after the Effective Date, Sims must, at its sole expense, install or extend existing fencing to provide a continuous 15-foot-high, heavy-duty vinyl mesh or comparable netting (i.e., 200 Hunter Series opaque material or other comparable fencing material) along the eastern boundary of the Site; provided, however, that Sims must request and receive approval from CDPH before using any comparable netting. CDPH is not required to approve such a request. Additionally:

- a) Sims must maintain the nettingopaque material or other comparable fencing material intact and promptly repair any tears.
- b) Beginning on the date the nettingopaque material or other comparable fencing material is installed in accordance with this paragraph 6, Sims must inspect the nettingopaque material or other comparable fencing material weekly and record findings in the Findings Documentation.
- c) If for any reason the opaque material or other comparable fencing material ~~netting~~ or any part of the nettingopaque material or other comparable fencing material has a single tear or cumulative tears larger than 5 inches total for every 250 square feet of netting, or becomes discontinuous due to damage or any other cause, Sims must immediately cease material handling on the Site and immediately provide CDPH Notification and Findings Documentation. Should any tear need to be replaced, Sims may patch the tear pending a replacement piece, and once patched, may immediately resume its material handling operations. Sims must not allow any material handling to occur on the Site until



~~the netting is repaired or replaced.~~

CDPH agrees and confirms that the netting set forth in this section will satisfy the fencing requirements as set forth in the CDPH's Rules for Large Recycling Facilities, a permit application under those rules, and any permit granted under those rules, and all of this shall occur without the need for any variance from existing ordinances, laws, rules or regulations.

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7. **Daily Perimeter Check.** In consideration for this Agreement, including paragraph 13 hereto, beginning on or before the seventh (7th) calendar day after the Effective Date, Sims must perform an inspection around the perimeter of the Site at least once daily to identify and clean up any visible debris that may have migrated from the Site and record findings in the Findings Documentation. This daily inspection may be conducted and recorded in conjunction with Sims' daily Fugitive Dust Plan inspection.

8. **Not An Admission.** The parties agree that entering into this Agreement is not an admission of liability by Sims.

9. **Other.** The parties agree and intend that neither this Agreement, nor compliance with this Agreement, proves or creates any presumption that Sims or the Site or facility is either in compliance or non-compliance with any of Sims' permits or with any section or paragraph of the Code. The parties agree and intend that this Agreement concludes only the above-referenced Cases and does not preclude or have any other effect of any kind (positive or negative) on any future permit, permit condition, notice of violation, claim, case, or action of any kind that may be issued or initiated. Sims acknowledges and agrees, and waives any claim or argument to the contrary, that if CDPH determines that Sims has violated or is in violation of any law or regulation, CDPH is not in any way limited by this Agreement in issuing notices of violation or other citations or otherwise taking action

relating to such violations and that this Agreement may not be raised as a defense against any such notice of violation, other citation, or claim.

10. **Right of entry.** CDPH, by its employees, and representatives, shall have the right of entry into and upon the Site at all reasonable times for the purposes of conducting inspections relating to compliance with this Agreement and evaluating Sims' compliance with this Agreement. In accordance with Sims' safety program requirements for any contractor or visitor, prior to entry, CDPH's employees/representatives shall announce their presence to Sims, and while on the Site, shall be accompanied by a Sims' representative(s) at all times. In conducting such inspections, CDPH's employees and representatives may take photographs and samples, and collect information, as they deem necessary. Nothing in this paragraph 10 shall be construed as diminishing or expanding CDPH's existing access authority pursuant to applicable law.

11. **Compliance with Laws.** This Agreement in no way affects the responsibility of Sims to comply with all applicable federal, state, and local laws and regulations, and permit conditions, including but not limited to the sections and paragraphs of the Code that were cited in the subject NOVs and associated rules, permit ENVREC104577, and any subsequently issued permits for the facility.

12. **Stipulated Penalties, and Default.**

a) Sims' failure to complete any requirement of this Agreement as specified herein constitutes a breach of this Agreement, in which case Sims must pay stipulated penalties in the amount of \$100.00 per day for the first 10 days and \$300.00 per day thereafter, until Sims achieves full compliance with this Agreement. The City may make a demand for stipulated penalties upon Sims for its noncompliance with this Agreement. However, failure

by the City to make such demand does not relieve Sims of the obligation to pay stipulated penalties. All stipulated penalties must be paid by certified or cashier's check made payable to the "City of Chicago" within thirty (30) calendar days after the date Sims has knowledge, or by exercise of reasonable diligence should have had knowledge, of its noncompliance with any provision of this Agreement.

b) Failure to make any payment required by this Agreement on or before the date upon which the payment is due constitutes a default, in which case and the remaining unpaid balance of the penalty shall be due and owing immediately. In the event of default, the City shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

13. **Non-Suit.** In consideration of Sims' timely payment of the above-referenced ~~\$10,000.00~~ ~~\$20,000.00~~ and its commitment to complete all of the other activities required by this Agreement, the City will move to non-suit the above-referenced NOVs , which non-suit will have the sole effect of resolving the above-referenced NOVs and Cases.

14. **Court Costs and Attorneys' Fees.** Each party will bear its own court costs, attorneys' fees, and expenses related to the negotiation, drafting, and execution of this Agreement and all issues relating to the Cases.

15. **Release.**

a) In consideration of the City's commitment as set forth in paragraph 13 of this Agreement, Sims hereby releases, waives, and discharges the City and its officers, employees, agents, representatives, and attorneys, on Sims' own behalf and on behalf of its officers, employees, agents, representatives, and attorneys, from any and all claims, demands, damages, losses or actions from the beginning of time through the Effective Date

of this Agreement, whether known or unknown, made or asserted or those that could be asserted by Sims against the City or its officers, employees, agents, representatives, or attorneys for any action the City or its officers, employees, agents, representatives, or attorneys has/have taken or failed to take relating to the subject Cases, NOV's, or the Site or facility.

b) Nothing in this Agreement is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action of any kind, whatsoever, that the City or CDPH may have against any person other than Sims.

16. **Venue.** The parties agree that the venue of any action commenced in Circuit Court for the purposes of interpretation, implementation and/or enforcement of the terms and conditions of this Agreement must be in Cook County, Illinois.

17. **Interpretation.** This Agreement is entered into in the State of Illinois and must be construed and interpreted in accordance with its applicable laws and any applicable local laws, federal laws, and the Constitution of the United States.

18. **Effectuation of Agreement.** The parties must execute any documents and take whatever steps are necessary to effectuate the purposes of this Agreement.

19. **Entire Agreement.** This Agreement and any documents required hereunder contain the entire agreement between the parties.

20. **Amendments and Related Matters.** This Agreement may not be altered, amended, changed, terminated or modified in any respect without the express, written consent of the parties hereto. No waiver by any party hereto of any breach or default hereunder shall be deemed a waiver of any other or subsequent breach or default.

21. **Parties Relied Solely on Their Own Judgment and Investigation.** The parties

acknowledge and expressly represent and warrant that they have relied solely upon their own judgment, together with advice of counsel, when deciding whether to enter into this Agreement. Each party further agrees, acknowledges, and expressly warrants that no information, statement, promise, representation, warranty, condition, inducement, or agreement of any kind, whether oral or written, made by or on behalf of any other party shall be, or has been, relied upon by it in entering into this Agreement unless specifically contained and incorporated herein.

22. **Joint Participation.** The parties warrant and represent that they have each knowingly and voluntarily entered into this Agreement following consultation with their respective legal counsel and participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement must be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

23. **Advice of Counsel.** Each of the parties hereto represents and warrants that it has had the advice of counsel concerning the terms and conditions of this Agreement. In entering into this Agreement, each party represents that it has relied upon the advice of its counsel, which is the counsel of its choice, and that the terms of this Agreement have been interpreted and explained by the party's counsel, and that these terms are fully understood and voluntarily accepted by the party.

24. **Binding Nature of Agreement.** The terms of this Agreement are binding upon, inure to the benefit of, and are enforceable by, the parties hereto, and their respective successors, administrators, executors, beneficiaries, and/or assigns.



25. **No Third-Party Rights.** Nothing in this Agreement is intended or shall be interpreted to confer any rights, privileges, or rights of action of any kind upon any person or entity not a party to this Agreement, or to effectuate a release by the parties of any claims or causes of action that either party has or may have against any person or entity not a party to this Agreement.

26. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Facsimile and electronically transmitted copies of signed counterparts of this Agreement shall be deemed to be authentic and valid.

27. **Authorization.** The undersigned representatives for each party to this Agreement certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Agreement and to legally bind them to it.

28. **Termination of Obligations.** The obligations of the parties under this Settlement Agreement shall terminate on the issuance of a permit by CDPH in accordance with the Rules for Large Recycling Facilities.

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**CITY OF CHICAGO  
DEPARTMENT OF PUBLIC HEALTH**

BY: \_\_\_\_\_  
(Signature)

Date:

Name:

Title:

**CITY OF CHICAGO  
DEPARTMENT OF LAW**

BY: \_\_\_\_\_  
(Signature)

Date:

Name:

Title:

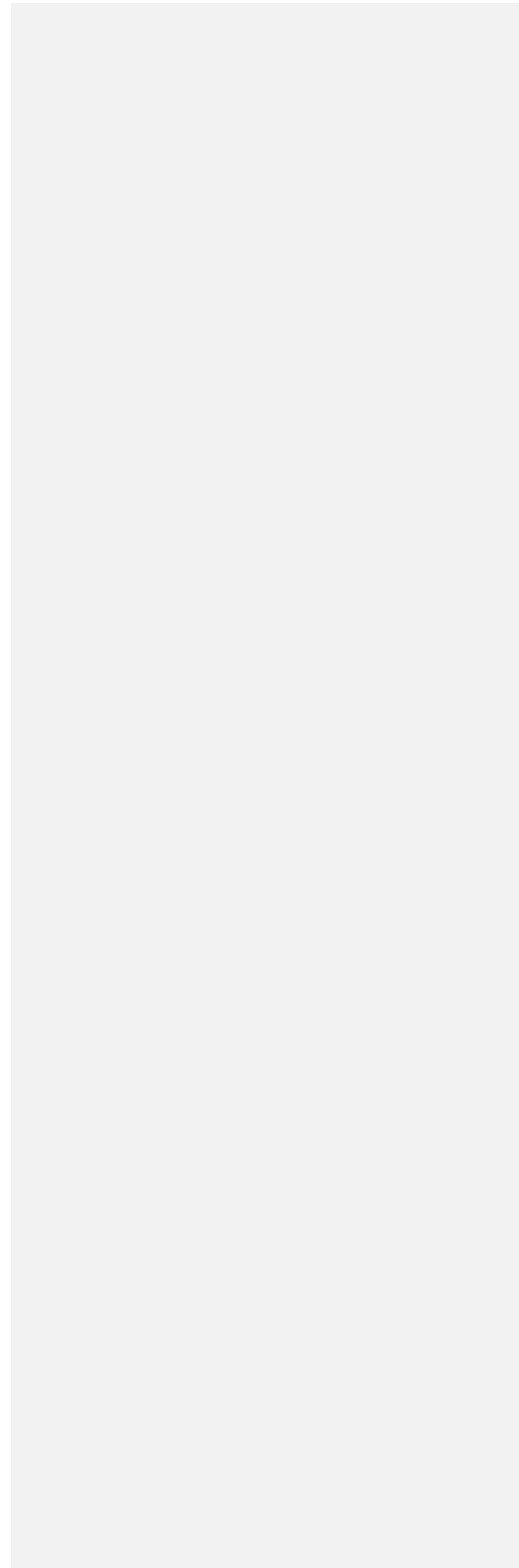
**METAL MANAGEMENT MIDWEST, INC.  
d/b/a SIMS METAL MANAGEMENT**

BY: \_\_\_\_\_  
Its Duly Authorized Representative  
(Signature)

Date:

Name:

Title:



---

**From:** Jennifer Hesse  
**Sent:** Tuesday, October 5, 2021 11:09 AM  
**To:** Mark LaRose  
**Subject:** Re: Metal Management Midwest / DPH Tickets

Thanks, Mark. Sounds good. Also, electronic copies are fine, so there's no need for a physical delivery.

Best,  
Jennifer

Jennifer David Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604  
(312) 745-8222

---

**From:** Mark LaRose <mlarose@laroseboscoblaw.com>  
**Sent:** Tuesday, October 5, 2021 11:03 AM  
**To:** Jennifer Hesse <Jennifer.Hesse@cityofchicago.org>  
**Subject:** Re: Metal Management Midwest / DPH Tickets

[Warning: External email]

Jennifer,

Thank you. I am confident that this is going to be approved. I am trying to get counterpart signature today for delivery to you today or tomorrow.

Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscoblaw.com](mailto:mlarose@laroseboscoblaw.com)

**Confidentiality Notice:**

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On Monday, October 4, 2021, 01:38:58 PM CDT, Jennifer Hesse <jennifer.hesse@cityofchicago.org> wrote:

Hi Mark,

I was planning to email you today. The City has discussed the proposed settlement at length. We appreciate your efforts and cooperation towards reaching an agreement. However, at this point, we've determined that it doesn't make sense to proceed with the agreement as originally contemplated, considering we are now so close to the permit renewal.

Accordingly, CDPH now offers the attached new agreement, which addresses resolution of the tickets with payment of a penalty only. We kept the sections in which Sims denies the allegations, and we reduced the payment amount. Please note that this is CDPH's best offer.

If Sims is in agreement, please return a signed copy. If you'd prefer to go to hearing, we can go ahead and schedule hearing dates. Although the continuance was marked final, I think the hearing officer will agree to continue these matters for hearing, since each docketed case will need a separate hearing, and we generally only conduct one hearing per Thursday (and always at 2:00, rather than 1:00).

Please let me know.

Thanks,  
Jennifer

Jennifer David Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604  
(312) 745-8222

---

**From:** Mark LaRose <mlarose@laroseboscilaw.com>  
**Sent:** Monday, October 4, 2021 10:29 AM  
**To:** Jennifer Hesse <jennifer.hesse@cityofchicago.org>  
**Cc:** George Malamis <george.malamis@simsmm.com>; Scott Miller <scott.miller@simsmm.com>; Debbie Hays <debbie.hays@simsmm.com>; Mary Karson <mkarson@laroseboscilaw.com>  
**Subject:** Metal Management Midwest / DPH Tickets

[Warning: External email]

## FOR SETTLEMENT PURPOSES ONLY

Good Morning Jennifer,

As you will recall, on September 20, 2021, I sent you a revised, redlined settlement agreement which hopefully conformed to everyone's comments and expectations.

The tickets are up on October 7, 2021 and the hearing officer has marked the tickets as a “FINAL CONTINUANCE.” Since we are so close to finalizing the Settlement Agreement, I suggest that the tickets be dismissed without prejudice.

Please advise. Thank you.

Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601  
(312) 642-4414  
Fax (312) 642-0434  
[mlarose@laroseboscoblaw.com](mailto:mlarose@laroseboscoblaw.com)

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**From:** Jennifer Hesse  
**Sent:** Wednesday, October 6, 2021 3:02 PM  
**To:** Mark LaRose  
**Subject:** Re: Metal Management Midwest / DPH Tickets

Hi Mark,

Dave has signed, and the agreement is now with the Law Department. However, I'm told it may be a few days before the right person is available to sign off. Also, I think technically the non-suit is supposed to happen after payment is made per the agreement. Therefore, I'd like to jointly request that the hearing officer grant one more short continuance.

If it's okay with you, I'll go ahead and make this request via email, and copy you. Is that okay?

Thanks,  
Jennifer

Jennifer David Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604  
(312) 745-8222

---

**From:** Mark LaRose <mlarose@larosebosc law.com>  
**Sent:** Tuesday, October 5, 2021 2:18 PM  
**To:** Jennifer Hesse <Jennifer.Hesse@cityofchicago.org>  
**Cc:** Scott Miller <scott.miller@simsmm.com>; George Malamis <george.malamis@simsmm.com>; Debbie Hays <debbie.hays@simsmm.com>; Mary Karson <mkarson@larosebosc law.com>  
**Subject:** Metal Management Midwest / DPH Tickets

[Warning: External email]

Jennifer,

Enclosed is a copy of the settlement agreement signed by Sims Metal Management. Please send me a copy signed by the City. Thank you for all of your help and cooperation throughout.

Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601



(312) 642-4414

Fax (312) 642-0434

[mlarose@laroseboscology.com](mailto:mlarose@laroseboscology.com)

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**From:** Jennifer Hesse  
**Sent:** Wednesday, October 20, 2021 6:23 PM  
**To:** Mark LaRose  
**Cc:** George Malamis;Debbie Hays;Mary Karson;Deiry Velazquez  
**Subject:** Re: Metal Management Midwest, Inc. / DPH Tickets  
**Attachments:** 10-20-21 Sims Settlement FINAL -- Fully Executed.pdf

Hi all,

I apologize for the delay. Attached is the fully-signed agreement. CDPH will non-suit the tickets tomorrow and send you confirmation afterward.

Thanks,  
Jennifer

Jennifer David Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604  
(312) 745-8222

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**From:** Mark LaRose <mlarose@laroseboscology.com>  
**Sent:** Tuesday, October 19, 2021 7:59 AM  
**To:** Jennifer Hesse <Jennifer.Hesse@cityofchicago.org>  
**Cc:** George Malamis <george.malamis@simsmm.com>; Debbie Hays <debbie.hays@simsmm.com>; Mary Karson <mkarson@laroseboscology.com>  
**Subject:** Re: Metal Management Midwest, Inc. / DPH Tickets

[Warning: External email]

Good Morning Jennifer,

Don't want to bother you, but I'm not sure what the hold-up is. The Hearing Officer was adamant that the settlement agreement must be finalized by the continued hearing date of 10/21, or we need to be ready to go to hearing. Please advise.

Mark

Mark A. LaRose  
LaRose & Bosco, Ltd.  
200 North LaSalle, Suite 2810  
Chicago, IL 60601  
(312) 642-4414

Fax (312) 642-0434

[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

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On Monday, October 18, 2021, 09:37:21 AM CDT, Mark LaRose <[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)> wrote:

Good Morning Jennifer,

As you know the tickets were continued to October 21, 2021 in order to finalize the settlement agreement. Has the City signed the settlement agreement? Please confirm, and please send us a copy. Thank you.

Mark

Mark A. LaRose

LaRose & Bosco, Ltd.

200 North LaSalle, Suite 2810

Chicago, IL 60601

(312) 642-4414

Fax (312) 642-0434

[mlarose@laroseboscolaw.com](mailto:mlarose@laroseboscolaw.com)

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("CDPH") permit no. ENVREC104577 (the "Permit");

**WHEREAS**, the Facility is a Consequential Facility under CDPH's recently promulgated Rules for Large Recycling Facilities, issued on June 5, 2020;

**WHEREAS**, on or before the expiration of the Permit, on November 15, 2021, Sims plans to submit a renewal application, which will be subject to the requirements of the Rules for Large Recycling Facilities;

**WHEREAS**, between March 6, 2020 and July 2, 2020, CDPH issued the below-listed Notices of Violation ("NOVs") to Sims, citing Sims for violating the corresponding, below-listed sections and paragraphs of the Municipal Code of Chicago ("Code") on the corresponding dates;

**WHEREAS**, said NOVs gave rise to cases in the City's Department of Administrative Hearings, having the corresponding Docket Numbers listed below ("Cases");

| <b>Case (Docket Number)</b> | <b>NOV(s)</b>            | <b>Violation Date</b> | <b>Code Sections and Paragraphs</b>                |
|-----------------------------|--------------------------|-----------------------|--|
| 20DE000305                  | E000034590<br>E000034591 | 3/6/20                | 11-4-620<br>11-4-760(a)<br>11-4-030(b)<br>11-4-730 |
| 20DE000203                  | E000034580               | 3/16/20               | 7-28-080<br>11-4-730                               |
| 20DE000304                  | E000034584<br>E000034583 | 3/24/20               | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000296                  | E000034585               | 3/27/20               | 7-28-080<br>11-4-730                               |
| 20DE000306                  | E000034586<br>E000035587 | 11/12/20              | 11-4-730<br>11-4-760(a)<br>7-28-080<br>11-4-030(b) |
| 20DE000460                  | E000037759<br>E000037760 | 6/10/20               | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |

|            |                          |         |  |
|------------|--------------------------|---------|--|
| 20DE000462 | E000037761<br>E000037762 | 6/12/20 | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000461 | E000037763<br>E000037764 | 6/16/20 | 11-4-760(a)<br>11-4-730<br>7-28-080<br>11-4-030(b) |
| 20DE000457 | E000038270               | 7/2/20  | 11-4-730<br>7-28-080                               |

**WHEREAS**, Sims denies CDPH’s allegations;

**WHEREAS**, both parties agree and acknowledge that this Agreement results from the desire of both parties to resolve these issues expeditiously and to avoid the costs that would be incurred and the uncertainty inherent to litigation; and

**WHEREAS**, this Agreement is intended by the parties to resolve solely the above-referenced Cases;

**THEREFORE**, in consideration of these recitals, which are deemed a material part of this Agreement, and of the mutual promises and covenants hereinafter set forth, the parties mutually warrant and agree as follows:

1. **WHEREAS Clauses.** The above “WHEREAS” clauses are incorporated as though fully set forth herein.
2. **\$18,000 Payment.** In consideration for this Agreement, including paragraph 13 hereto, within 14 days of receipt of a payment invoice from CDPH, Sims must pay to the City, in the form of a cashier’s or certified check made payable to the “City of Chicago,” the total amount of \$18,000.00.
3. **Not An Admission.** The parties agree that entering into this Agreement is not an admission of liability by Sims.

4. **Other.** The parties agree and intend that this Agreement concludes only the above-referenced Cases and does not preclude or have any other effect of any kind (positive or negative) on any future permit, permit condition, notice of violation, claim, case, or action of any kind that may be issued or initiated. Sims acknowledges and agrees, and waives any claim or argument to the contrary, that if CDPH determines that Sims has violated or is in violation of any law or regulation, CDPH is not in any way limited by this Agreement in issuing notices of violation or other citations or otherwise taking action relating to such violations and that this Agreement may not be raised as a defense against any such notice of violation, other citation, or claim.

5. **Compliance with Laws.** This Agreement in no way affects the responsibility of Sims to comply with all applicable federal, state, and local laws and regulations, and permit conditions, including but not limited to the sections and paragraphs of the Code that were cited in the subject NOVs and associated rules, permit ENVREC104577, and any subsequently issued permits for the facility.

6. **Non-Suit.** In consideration of Sims' timely payment of the above-referenced \$18,000.00, the City will move to non-suit the above-referenced NOVs, which non-suit will have the sole effect of resolving the above-referenced NOVs and Cases.

7. **Court Costs and Attorneys' Fees.** Each party will bear its own court costs, attorneys' fees, and expenses related to the negotiation, drafting, and execution of this Agreement and all issues relating to the Cases.

8. **Release.**

a) In consideration of the City's commitment as set forth in paragraph 6 of this Agreement, Sims hereby releases, waives, and discharges the City and its officers,



employees, agents, representatives, and attorneys, on Sims' own behalf and on behalf of its officers, employees, agents, representatives, and attorneys, from any and all claims, demands, damages, losses or actions from the beginning of time through the Effective Date of this Agreement, whether known or unknown, made or asserted or those that could be asserted by Sims against the City or its officers, employees, agents, representatives, or attorneys for any action the City or its officers, employees, agents, representatives, or attorneys has/have taken or failed to take relating to the subject Cases, NOVs, or the Site or facility.

b) Nothing in this Agreement is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action of any kind, whatsoever, that the City or CDPH may have against any person other than Sims.

9. **Venue.** The parties agree that the venue of any action commenced in Circuit Court for the purposes of interpretation, implementation and/or enforcement of the terms and conditions of this Agreement must be in Cook County, Illinois.

10. **Interpretation.** This Agreement is entered into in the State of Illinois and must be construed and interpreted in accordance with its applicable laws and any applicable local laws, federal laws, and the Constitution of the United States.

11. **Effectuation of Agreement.** The parties must execute any documents and take whatever steps are necessary to effectuate the purposes of this Agreement.

12. **Entire Agreement.** This Agreement and any documents required hereunder contain the entire agreement between the parties.

13. **Amendments and Related Matters.** This Agreement may not be altered, amended, changed, terminated or modified in any respect without the express, written consent of the

parties hereto. No waiver by any party hereto of any breach or default hereunder shall be deemed a waiver of any other or subsequent breach or default.

14. **Parties Relied Solely on Their Own Judgment and Investigation.** The parties acknowledge and expressly represent and warrant that they have relied solely upon their own judgment, together with advice of counsel, when deciding whether to enter into this Agreement. Each party further agrees, acknowledges, and expressly warrants that no information, statement, promise, representation, warranty, condition, inducement, or agreement of any kind, whether oral or written, made by or on behalf of any other party shall be, or has been, relied upon by it in entering into this Agreement unless specifically contained and incorporated herein.

15. **Joint Participation.** The parties warrant and represent that they have each knowingly and voluntarily entered into this Agreement following consultation with their respective legal counsel and participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement must be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

16. **Advice of Counsel.** Each of the parties hereto represents and warrants that it has had the advice of counsel concerning the terms and conditions of this Agreement. In entering into this Agreement, each party represents that it has relied upon the advice of its counsel, which is the counsel of its choice, and that the terms of this Agreement have been interpreted and explained by the party's counsel, and that these terms are fully understood and voluntarily accepted by the party.

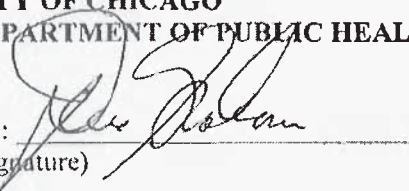
17. **Binding Nature of Agreement.** The terms of this Agreement are binding upon, inure to the benefit of, and are enforceable by, the parties hereto, and their respective successors, administrators, executors, beneficiaries, and/or assigns.

18. **No Third-Party Rights.** Nothing in this Agreement is intended or shall be interpreted to confer any rights, privileges, or rights of action of any kind upon any person or entity not a party to this Agreement, or to effectuate a release by the parties of any claims or causes of action that either party has or may have against any person or entity not a party to this Agreement.

19. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. Facsimile and electronically transmitted copies of signed counterparts of this Agreement shall be deemed to be authentic and valid.

20. **Authorization.** The undersigned representatives for each party to this Agreement certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Agreement and to legally bind them to it.

**CITY OF CHICAGO  
DEPARTMENT OF PUBLIC HEALTH**

BY:   
(Signature)

Date:

10/6/2021

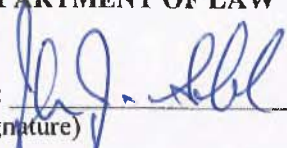
Name:

Dave Graham

Title:

Assistant Commissioner

**CITY OF CHICAGO  
DEPARTMENT OF LAW**

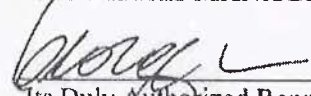
BY:   
(Signature)

Date: 10/20/2021

Name: John J. Sabl

Title: Managing Deputy of Transactions and Deputy - Aviation,  
Environmental, Regulatory and Contracts

**METAL MANAGEMENT MIDWEST, INC.  
d/b/a SIMS METAL MANAGEMENT**

BY:   
Its Duly Authorized Representative  
(Signature)

Date: 10/9/21

Name: GEORGE MARAMIS

Title: VICE PRESIDENT

---

**From:** Jennifer Hesse  
**Sent:** Wednesday, October 27, 2021 2:47 PM  
**To:** Debbie Hays  
**Cc:** Mark LaRose  
**Subject:** Invoice for Sims Metal Management  
**Attachments:** SIMS Metal Management\_City of Chicago Invoice.pdf

Good afternoon,

Please see the attached invoice.

Thanks,  
Jennifer

Jennifer David Hesse  
Staff Attorney  
Environmental Permitting & Inspections  
Chicago Department of Public Health  
333 S. State Street, Rm. 200  
Chicago, IL 60604  
(312) 745-8222



CITY OF CHICAGO

# INVOICE

| ACCOUNT NUMBER | INVOICE NUMBER | BILLING DATE | AMOUNT DUE  |
|----------------|----------------|--------------|-------------|
| 97115          | 427030         | 10/27/2021   | \$18,000.00 |

**PAY ONLINE AT PAY.CITYOFCHICAGO.ORG**

- OR -

- 1) MAKE CHECK OR MONEY ORDER PAYABLE TO THE CITY OF CHICAGO
- 2) INCLUDE ACCOUNT NUMBER & INVOICE NUMBER ON YOUR PAYMENT DOCUMENT
- 3) RETURN THIS PORTION WITH YOUR PAYMENT

**SIMS METAL MANAGEMENT**  
**2500 S. PAULINA STREET**  
**CHICAGO, IL 60608**

**AMOUNT PAID**  
 \_\_\_\_\_

Please use the Billing Address above to correct name & address.

Page 1

**427030200018000000**

KEEP THIS PORTION FOR YOUR RECORDS

SIMS METAL MANAGEMENT  
 2500 S. PAULINA STREET  
 CHICAGO, IL 60608

| ACCOUNT NUMBER | INVOICE NUMBER       | Work Order # | BILLING DATE | AMOUNT DUE  |
|----------------|----------------------|--------------|--------------|-------------|
| 97115          | 00000000000000427030 |              | 10/27/2021   | \$18,000.00 |

Page 1

| Department Name              | LINE DESCRIPTION                    | Date | Location | AMOUNT      |
|------------------------------|-------------------------------------|------|----------|-------------|
| Chicago Department of Health | 041-Settlement, Fines and Penalties |      |          | \$18,000.00 |

**PAY ONLINE AT PAY.CITYOFCHICAGO.ORG**

Please remit the amount due within 30 days to:

**CITY OF CHICAGO FMPS**  
**P.O. Box 71630**  
**Chicago, IL 60694-7163**

Please respond in a timely manner to avoid further collection efforts.



## Concerned citizen and provider from Pilsen

Kimberly Lopez <[REDACTED]>

Fri 3/18/2022 10:49 AM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

In reading the decision to deny a permit to RMG, CDPH concludes that ***“the facility proposes to undertake an inherently dangerous activity in a vulnerable community area, and the Applicant failed to provide sufficient evidence that the facility can comply and stay in compliance with the terms and conditions of a Permit, the Code, or the Rules as necessary to fully protect the residents of the Southeast Side.”***

According to CPDH language, CDPH determines if a permit is granted or denied - based on reading the standard. Sims' location has more environmental issues than the Southeast Side. Countless federal, state, and City rules violations at this facility. Yet, they're still open! Why? Furthermore, its other shredding facilities throughout the country are evidence that Sims will not be able to comply or stay compliant as necessary to protect Pilsen residents. Reviewing recent CDPH inspection reports shows that Sims should be closed immediately given the recent lawsuit filed by the Illinois Attorney General and past and ongoing violations of CDPH rules. Please consider the health and wellness to the people in this area when deciding to grant or deny this permit.

<https://www.bettergov.org/news/interactive-map-pollution-hits-chicagos-west-south-sides-hardest/>

Thank you.

Kimberly Lopez, APRN, PMHNP, FNP-C

A concerned citizen and provider from Pilsen

*They tried to bury us. They didn't know we were seeds"*  
~ Mexican Proverb



## Concerned citizen from Pilsen

Kimberly Lopez <[REDACTED]>

Fri 3/18/2022 11:06 AM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

CDPH's website (language and link below) indicates that public comments should only focus on whether the Sims application meets all the requirements. In the case of the SE side recycling facility at RMG, the City did not limit comments to the application and whether it met its requirements. RMG's application was far from the focus of the majority of words. Due to past conduct by affiliated facilities, no permit was granted. Sims' past and present behavior directly relates to future actions and environmental harm caused by their operation, rather than what is relevant on the southeast side. As a result, the CDPH should consider Sims' history of past and ongoing environmental violations, and we should have the right to raise those concerns. Based on this history, any permit needs to revoking.

[https://www.chicago.gov/city/en/depts/cdph/provdrs/healthy\\_communities/svcs/public-health---community-information.html](https://www.chicago.gov/city/en/depts/cdph/provdrs/healthy_communities/svcs/public-health---community-information.html)

### **Metal Management Midwest, Inc.**

- On November 12, 2021, CDPH received a permit renewal application from Metal Management Midwest, Inc. d/b/a Sims Metal Management ("Sims"). The application is for a renewal of the Class IVB recycling permit for the metal shredding facility located at 2500 S. Paulina Steet.

During the initial written comment period, CDPH received numerous comments, indicating a significant degree of public interest in the application. Accordingly, CDPH will schedule a community meeting prior to making a decision on the renewal application. In addition, CDPH will leave the written comment period open until at least five (5) days following the community meeting. Comments may be submitted to [envcomments@cityofchicago.org](mailto:envcomments@cityofchicago.org).

CDPH will provide at least ten (10) days' notice of the community meeting.

- [Click here to read the permit renewal application submitted by Metal Management Midwest, Inc.](#)

Respectfully,

Kimberly Lopez, APRN, PMHNP. FNP-C

*They tried to bury us. They didn't know we were seeds"*

~ Mexican Proverb

## Sims Large Recycling Facility permit application

Brent Mulder <[REDACTED]>

Wed 3/23/2022 5:34 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear Commissioner Arwady:

The CDPH website states that it is soliciting comments for an application submitted by City of Chicago, Sims Metal Management (Sims) for a renewal of a Class IVB Permit. However, the CDPH website includes a link to Sims' application for a Large Recycling Facility, not a renewal of a Class IVB Permit. Is there a reason why CDPH lists this as a renewal of a Class IVB Permit and not an application for a Large Recycling Facility Permit, which will be substantially more stringent than a simple Class IVB Permit?

As you are aware, Sims had a Class IVB Recycling Facility Permit that expired on November 15, 2021. Prior to expiration of that permit, Sims submitted an application to operate as a Large Recycling Facility (not a renewal of a Class IVB Permit). Section 5 of the Large Recycling Facility Rules states that "***The requirements in Section 4 (Operating Standards) shall take effect no later than the timeline specified in the operating permit issued for an application submitted pursuant to Section 3, but no later than six months from the date the permit is reissued, unless an extension for good cause is granted by the Commissioner.***"

The language in Section 5 raises questions regarding the effective date of the Operating Standards, specifically the "timeline specified in the operating permit" and "no later than six months from the date the permit is reissued." Since the Large Recycling Facility Rules are relatively new, CDPH has not issued a Large Recycling Facility Permit to any recycling facility in the City of Chicago, including Sims. Since CDPH has not issued a Large Recycling Facility Permit to Sims, there can be no "timeline" specified to comply with the Operating Standards. And obviously a Large Recycling Facility Permit cannot be "reissued" to a facility that was never granted such a permit in the first place. Based on the fact that the language in Section 5 is so unclear and since there is no deadline by which CDPH must issue a Large Recycling Facility Permit, when will your department begin enforcing the Operating Standards in the Large Recycling Facility Rules for Sims?

The fact that Sims is currently operating a Large Recycling Facility without a Large Recycling Facility Permit and apparently under an expired Class IVB Permit raises serious questions about how the CDPH is enforcing any of its own rules or regulations, or the Municipal Code. Based on the fact it took CDPH over 15 months to make a decision on the Southside Recycling Large Recycling Facility Permit, will Sims be allowed to continue operating indefinitely, without a Large Recycling Facility Permit and without complying with Large Recycling Facility Operating Standards, all while CDPH conducts its "review" of the Sims application?

## SIMS ENVIROMENTAL NON-COMPLIANCE

Ms denise follmar <[REDACTED]>

Thu 3/24/2022 3:01 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear Dr. Arwady:

In reading the decision to deny a permit to RMG, CDPH concludes that "the facility proposes to undertake an inherently dangerous activity in a vulnerable community area, and the Applicant failed to provide sufficient evidence that the facility can comply and stay in compliance with the terms and conditions of a Permit, the Code, or the Rules as necessary to fully protect the residents of the Southeast Side."

Since this is the standard that CDPH is using to determine whether to issue or deny a permit, then there is no doubt that Sims does not qualify for a permit. Sims is located in an area of the City that is even more environmentally burdened than the Southeast Side and sims numerous violations of federal, state and city environmental regulations at its Chicago facility, as well as some of its other shredding facilities throughout the country, demonstrate that Sims is certainly not able to comply or stay in compliance as necessary to protect the residents of Pilsen. In fact, the recent lawsuit filed against Sims by the Illinois Attorney General along with past and ongoing violations of CDPH rules that can be seen by reviewing recent CDPH inspection reports actually demonstrate that Sims should be shut down immediately.

## Sims Metal Management Inspections

Liset Menendez [REDACTED] >

Thu 3/24/2022 3:14 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear CDPH Commissioner:

I'd like someone in your department to explain the reason that off-site auto fluff is no longer being included in site inspection reports for Sims. The last 5 inspections listed below show that it has been nearly 3 months since the inspector noted auto fluff on other properties, yet anyone that walks the neighborhood around Sims can see auto fluff every single day of the week. Is there some "pending enforcement action" as referenced by the inspector? If not, how long will CDPH continue to "observe and investigate" before the City does something about this? Sims continues to prove they cannot be trusted to comply with city environmental rules, let alone state and federal EPA regulations. Their permit should be denied!

[INSPECTION LOG #: 15736478 14-DEC-21 10:40:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING `DUST? AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). THE COMPLAINT LISTED SIMS METAL MANAGEMENT AT THE BUSINESS NAME. METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH.WHILE CANVASSING THE AREA ON DECEMBER 14, 2021, ODORS AND VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS IN OPERATION AND MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND AND TO THE SHREDDER CONVEYOR BELT. DUST WAS OBSERVED WHEN WORKERS MOVED MATERIALS. EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK WAS OBSERVED BUT THE STREET SWEEPER WAS SEEN. THE ROADS WERE NOT WETTED AND NO WATER CONTROLS WERE OBSERVED. TRUCKS THAT WERE DRIVING ON PAULINA ST WERE CREATING DUST AND TRACK OUT FROM PAULINA ST TO S BLUE ISLAND AVE WAS SEEN.THE WIND WAS TRAVELING FROM THE SOUTHEAST AT 9MPH AT 10:00AM ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 46°F AT THE TIME OF THE INSPECTION.AN INTENSE SICKLY SWEET AND BURNING METAL/OIL ODORS WERE OBSERVED DOWNWIND OF THE FACILITY, ON PAULINA ST. AUTO FLUFF WAS ALSO OBSERVED AT LOADING DOCK OF THE PREFERRED FREEZER (2357 S WOOD ST).AN ENFORCEMENT ACTION IS ALREADY PENDING FOR THESE ISSUES.CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

[INSPECTION LOG #: 15827927 05-JAN-22 13:30:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO MULTIPLE COMPLAINTS REGARDING THE FOLLOWING: `WHY ARE THEY ALLOWED TO KEEP MAKING POLLUTION?? WHY DO YOU LET THEM KEEP OPERATING WHEN YOU ALREADY SHUT DOWN ONE SHREDDER ON THE SOUTH SIDE. IS MY LIFE NOT AS IMPORTANT AS THE ONES ON THE SOUTH SIDE? (601119025) AND AN ANONYMOUS COMPLAINT REGARDING `OPEN BURNING? (601119027) AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). THE COMPLAINT LISTED SIMS METAL MANAGEMENT AT THE BUSINESS NAME. METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH.WHILE CANVASSING THE AREA ON JANUARY 5, 2022, VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS IN OPERATION AND

MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND AND TO THE SHREDDER CONVEYOR BELT. DUST WAS OBSERVED WHEN WORKERS MOVED MATERIALS. EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK OR STREET SWEEPER WAS SEEN. THE STREETS WERE WET FROM THE RECENT SNOW FALL. THE WIND WAS TRAVELING FROM THE WEST SOUTHWEST AT 25MPH AT 01:15PM ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 14°F AT THE TIME OF THE INSPECTION. I WAS NOT ABLE TO DETECT ODORS DURING THIS INSPECTION. CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

[INSPECTION LOG #: 15906837 20-JAN-22 14:50:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING THE FOLLOWING: `CAR SHREDDING BUSINESS? AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH. WHILE CANVASSING THE AREA ON JANUARY 20, 2022, VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS IN OPERATION AND MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND AND TO THE SHREDDER CONVEYOR BELT. DUST WAS OBSERVED WHEN WORKERS MOVED MATERIALS AND TRUCKS DROVE DOWN PAULINA ST. EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK WAS SEEN AND THE STREET WAS DRY. A STREET SWEEPER WAS OBSERVED. THE WIND WAS TRAVELING FROM THE NORTH-NORTHWEST AT 10MPH AT 01:45PM ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 19°F AT THE TIME OF THE INSPECTION. I WAS NOT ABLE TO DETECT ODORS DURING THIS INSPECTION. CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

[INSPECTION LOG #: 15906911 21-JAN-22 09:30:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING THE FOLLOWING: `CAR SHREDDING BUSINESS? AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH. WHILE CANVASSING THE AREA ON JANUARY 21, 2022, VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS IN OPERATION AND MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND AND TO THE SHREDDER CONVEYOR BELT. DUST WAS OBSERVED WHEN WORKERS MOVED MATERIALS AND TRUCKS DROVE DOWN PAULINA ST. EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK OR STREET SWEEPER WAS OBSERVED AND THE STREET WAS DRY. THE WIND WAS TRAVELING FROM THE WEST-SOUTHWEST AT 2MPH AT 08:45AM ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 18°F AT THE TIME OF THE INSPECTION. STRONG ODORS OF SICKLY SWEET, BURNING METAL WAS OBSERVED AT THE CITY OF CHICAGO FACILITY (2352 S ASHLAND AVE) WHICH IS DIRECTLY DOWNWIND OF THE SHREDDER (NORTH-NORTHEAST). IT WAS UNCOMFORTABLE TO INHALE THIS ODOR. AN ENFORCEMENT ACTION IS ALREADY PENDING FOR THESE ISSUES. CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

[INSPECTION LOG #: 16066393 18-FEB-22 14:35:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH. NO COMMENTS WERE LISTED ON THE COMPLAINT BUT IT LISTED SIMS METAL MANAGEMENT COMPANY AND 2500 S PAULINA ST. WHILE CANVASSING THE AREA ON FEBRUARY 18, 2022, NO ODORS OR VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS NOT IN OPERATION AND NO MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN ORGANIZING MATERIALS. NO WATER TRUCK OR STREET SWEEPER WAS OBSERVED BUT THE STREET WAS WET FROM A RECENT SNOW FALL. THE WIND WAS TRAVELING FROM THE WEST-SOUTHWEST AT 21MPH AT 13:45 ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 25°F AT THE TIME OF THE INSPECTION. CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

[INSPECTION LOG #: 16066426 22-FEB-22 09:45:00] CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING AT 2500 S PAULINA ST, SIMS METAL MANAGEMENT (METAL MANAGEMENT MIDWEST INC). METAL MANAGEMENT MIDWEST INC. DBA SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH. NO COMMENTS WERE LISTED ON THE COMPLAINT BUT IT LISTED SIMS METAL MANAGEMENT COMPANY AND 2500 S PAULINA ST.WHILE CANVASSING THE AREA ON FEBRUARY 22, 2022, VISIBLE EMISSIONS WERE OBSERVED. THE SHREDDER WAS IN OPERATION AND MATERIALS WERE ON THE CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND AND TO THE SHREDDER CONVEYOR BELT. EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK OR STREET SWEEPER WAS OBSERVED.THE WIND WAS TRAVELING FROM THE NORTH AT 10MPH AT 09:15AM ([WHEATHERCHANNEL.COM](http://WHEATHERCHANNEL.COM)). THE TEMPERATURE WAS 37°F AT THE TIME OF THE INSPECTION AND IT WAS [RAINING.NO](#) ODORS WERE OBSERVED SINCE THERE IS NO ACCESS TO THE SOUTH END OF THE FACILITY.CDPH WILL CONTINUE TO OBSERVE AND INVESTIGATE.

## Please deny the Sims Metal permit!

Nancy Menendez <[REDACTED]>

Thu 3/24/2022 3:39 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear Dr Arwady,

I am writing to oppose the Large Recycling Facility permit for Sims. I feel like the residents of Pilsen are not being treated the same as residents on the SE side of the City. It seems like RMG/General Iron gets all the attention but Sims is even closer to residences and schools and nobody seems to care. Sims seems to always get violations from the EPA but nothing changes there. They just keep operating even though Pilsen is a highly burdened, environmental justice area. A section in an article that is linked below explains the issue well:

“The findings, illustrated through a citywide map and provided to the Better Government Association, were compiled by the environmental advocacy group Natural Resources Defense Council. The group hopes to use the document to persuade city officials to stop a frequent practice of steering scrap yards, distribution warehouses and other polluting businesses to the same neighborhoods with large concentrations of Latinos and African Americans.”

Pilsen deserves better. Deny the permit!

<https://www.bettergov.org/news/interactive-map-pollution-hits-chicagos-west-south-sides-hardest/>

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## Sims Permit Application

Brian Joseph <[REDACTED]>

Thu 3/24/2022 3:45 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

To Allison Arwady,

I reviewed the permit application for Sims along with the Large Recycling Facility Rules and CDPH Guidelines and I'd like to know what the timeline is for the CDPH to rule on the permit. It seems to me there is no deadline meaning that with the back and forth between CDPH and the company's history of dragging things out, Sims could continue to operate indefinitely (as a large recycling facility with no pollution controls on its shredder) during the application review process. This is completely irresponsible given Sims' history of environmental compliance problems. Look at CDPH's own inspections of the facility along with the attorney general lawsuit and EPA violations for emitting VOCs into the air. VOC's are known to cause birth defects and are carcinogens. Why is there is there no deadline for a permit decision, which should result in a denial?



## Sims pollution control???

Bre B <[REDACTED]>

Thu 3/24/2022 4:44 PM

To: envcomments <envcomments@cityofchicago.org>

 1 attachments (219 KB)

Sims Attorney General lawsuit.pdf;

[Warning: External email]

To City of Chicago:

The Large Recycling Facility permit application for Sims does not include information or documentation about the pollution controls that they are supposedly going to install according to the attached Illinois Attorney General lawsuit against Sims. Nor does it state when these controls will be in place. The city has to realize the impact of allowing Sims to operate without pollution controls on its shredder. It is estimated that they are putting over 85 tons per year of volatile organic matter into the air each year . The seriousness of this for the people of Pilsen is evident by this excerpt from the USEPA : ***"VOMs are photochemical oxidants associated with a number of detrimental health effects, which include birth defects and cancer, as well as environmental and ecological effects. In the presence of sunlight, VOMs are influenced by a variety of meteorological conditions and have the ability to create photochemical smog. VOMs react with oxygen in the air to produce ground-level ozone."***



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.

[Return to October 2021 Press Releases](#)



**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*,

FILED DATE: 10/15/2021 8:30 AM 2021CH05279

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:*

Daniel Robertson  
Arlene Haas  
Assistant Attorneys General  
Environmental Bureau  
69 W. Washington St., Suite 1800  
Chicago, Illinois 60602  
(312) 814-3532/3153  
daniel.robertson@ilag.gov  
arlene.haas@ilag.gov  
maria.cacaccio@ilag.gov

## Sims Chicago River contamination

Tania Camarena <[REDACTED]>

Fri 3/25/2022 10:12 AM

To: envcomments <envcomments@cityofchicago.org>

 2 attachments (533 KB)

Redwood City\_ Metal recycling facility to pay \$2.4 million to settle civil case – The Mercury News.pdf; 09\_18\_2014\_ U.S. EPA requires cleanup, fines Sims Metal Management for polluting San Francisco Bay.pdf;

[Warning: External email]

Dear Dept of Public Health:

I reviewed the Sims application and I'm concerned that the issue of material falling into the Chicago River has not been addressed based on violations issued and fines that were levied at other Sims facilities including one of their facilities in California. See attached articles about the irresponsible conduct at Sims facilities in California. I have seen Sims load barges from the bridge and I don't see any preventative measures taken.

Thank you!!



## Newsroom

# All News Releases By Date

## U.S. EPA requires cleanup, fines Sims Metal Management for polluting San Francisco Bay

Release Date: 09/18/2014

Contact Information: Suzanne Skadowski, 415-972-3165, [skadowski.suzanne@epa.gov](mailto:skadowski.suzanne@epa.gov)

### ***Redwood City recycler contaminated Bay waters with toxic mercury, lead, zinc and PCBs***

SAN FRANCISCO – Today the U.S. Environmental Protection Agency and U.S. Department of Justice fined Sims Metal Management \$189,500 for polluting San Francisco Bay with scrap metal debris in violation of the federal Clean Water Act. Since at least the early 1990s, Sims operated a conveyor belt without adequate pollution controls to prevent materials from falling off the conveyor and into the Bay.

"More than 40 years after Congress passed the Clean Water Act, it is appalling that companies continue to pollute San Francisco Bay," said Jared Blumenfeld, EPA's Regional Administrator for the Pacific Southwest. "Taking strong enforcement action against polluters like Sims Metal is needed if we are to once and for all end illegal dumping into the fragile Bay ecosystem."

Sims processes and exports more than 300,000 tons of scrap metals from over 200,000 recycled vehicles and other equipment each year to China and other global destinations out of its Port of Redwood City facility. During a stormwater permit inspection in 2011, EPA discovered evidence of scrap metal pollution into the Bay from the company's conveyor belt. At the time, Sims had no protective covering on the conveyor moving scrap metals from its shredder and onto ships, so the metal dust blew off the top and fell off the sides of the belt and into the Bay. EPA tested the shoreline near the conveyor and found high levels of toxic metals including mercury, lead, copper, zinc and polychlorinated biphenyls (PCBs).

In 2011, EPA ordered Sims to clean up the shoreline, enclose its conveyor, and make other fixes to prevent future discharges to the Bay. In addition to paying a fine for those violations, today's settlement requires Sims to investigate and clean up its pollution in the Bay, which will likely cost the company several hundred thousand dollars. Sims will conduct a sediment study to determine the extent of contamination in the Bay from its conveyor operations. If the study shows that its ship-loading operations polluted the Bay, Sims will have to clean up the contamination.

San Francisco Bay is the largest estuary on the Pacific coast hosting millions of migratory birds and supporting commerce and recreation for more than seven million Bay Area residents. The Bay is also heavily burdened by many sources of pollution that threaten the Bay's marine life, including toxic metals and chemicals from industrial facilities.

EPA works to protect and restore the Bay through Clean Water Act enforcement and other programs including the San Francisco Bay Water Quality Improvement Fund. Since 2008, the fund has invested over \$32 million in grants to reduce polluted runoff to the Bay and restore Bay wetlands.

Learn more about how EPA helps protect and restore the Bay at: <https://www.epa.gov/sfbay-delta>

The proposed settlement is subject to a 30-day public comment period and final court approval.

View enforcement documents and photos at: [www.epa.gov/region9/mediacenter/sims-metal/](http://www.epa.gov/region9/mediacenter/sims-metal/)

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**BUSINESS**

## Redwood City: Metal recycling facility to pay \$2.4 million to settle civil case

By **JASON GREEN** | [jason.green@bayareanewsgroup.com](mailto:jason.green@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: November 24, 2014 at 4:30 p.m. | UPDATED: August 12, 2016 at 6:52 a.m.

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Sims Group USA will pay nearly \$2.4 million to settle a civil case stemming from an investigation of its Redwood City metal recycling facility by the California Department of Toxic Substances Control.

Announced on Monday, the agreement follows a six-figure fine the U.S. Environmental Protection Agency recently imposed on the firm for allowing toxic metal dust to blow into the Bay.

The probe by the Department of Toxic Substances Control centered on the release of "light fibrous material," or LFM. Easily airborne, the dryer-lint-like substance is created when small bits of upholstery, carpets and other fabric components of cars and other scrap metal items are processed.

The state agency found the material as far as 2,000 feet away from the facility at 699 Seaport Blvd., according to its chief counsel, Reed Sato. Nearly all of the samples collected contained levels of cadmium, copper, lead and zinc that exceeded hazardous material regulatory thresholds.

There was, however, a low risk to the public because the material was not concentrated in any one area, Sato said.

A civil complaint filed in San Mateo County Superior Court by the California Attorney General's Office on behalf of the Department of Toxic Substances Control alleged that Sims had violated the state's hazardous waste control law by allowing the material to escape the confines of its 13-acre facility.

The settlement calls for Sims to pay roughly \$1.44 million to upgrade its facility beyond current regulatory requirements, as well as \$825,000 to the Department of Toxic Substances Control for civil penalties and the cost of its investigation. The California Environmental Protection Agency will also receive \$125,000 for its environmental enforcement and training account program.

"The goal of this enforcement is to protect the surrounding communities by requiring Sims to enhance the control of LFM from its facility and prevent accumulation of hazardous waste offsite," Sato said.

The upgrades, which include enclosing a metal shredder mill and other pieces of metal separation equipment, will build on several others Sims has made to control the release of the material.

"Well before reaching this agreement, Sims already had implemented extensive best management practices to control LFM from its operations, but agreed as part of the settlement to implement additional control measures," Sims Group USA said in a statement about the settlement.

Until the upgrades are complete, Sims will be required to conduct weekly inspections to determine whether the material is accumulating on private and public property near the facility.

Although it agreed to the settlement, Sims did not admit to any of the allegations in the complaint. In fact, the firm maintained in its statement that light fibrous material is not a waste product and that the Bay Area Quality Management District is responsible for regulating any off-site dispersal, not the Department of Toxic Substances Control.

The settlement marks the conclusion of yet another in a series of run-ins between Sims and regulatory agencies.

In September, the EPA announced it was fining Sims \$189,500 based on 2011 tests that found high levels of lead, mercury, polychlorinated biphenyls and zinc in the waters near the Sims site. The hazardous material allegedly blew off an uncovered conveyer



## Redwood City: Metal recycling facility to pay \$2.4 million to settle civil case – The Mercury News

In addition, Sims has found itself in the crosshairs of the Bay Area Air Quality District, which handed out fines for fires that spewed toxic smoke in 2007 and 2013. A pair of blazes last year also resulted in Redwood City imposing more than a dozen safety measures, such as requiring the facility to boost security staffing and banning it from stockpiling combustible recyclables overnight.

Email Jason Green at [jgreen@dailynewsgroup.com](mailto:jgreen@dailynewsgroup.com); follow him at [twitter.com/jgreendailynews](https://twitter.com/jgreendailynews).

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## Sims Metal Management

Matthew Parker <[REDACTED]>

Fri 3/25/2022 3:27 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dr. Arwady,

I am writing in reference to a recent Chicago Sun Times article about growing public pressure on Sims in Pilsen. The CDPH is currently in an operating permit renewal phase on that property.

The residents of the city of Chicago generate over 1MTPY of recyclable / shreddable (steel) material and for the last fifteen months the vast majority of that locally generated recyclable material has been inefficiently (negatively impacting us all) transported to shredders far from Chicago (hundreds of miles in most cases). Obviously, the reason the City of Chicago cannot recycle most of its own material is because the CDPH denied the South Side Recycling permit.

Most cities (not called Chicago) embrace recycling! Recycling is often referred to as urban mining. The more localized recycling is allowed to be the less of a carbon footprint the process generates.

Now, of course, the community surrounding the Pilsen shredder (EJ) has been emboldened, by the CDPH's permit denial of Southside, to advocate towards eliminating the last little bit of Chicago's ferrous shredding capability. We all lose when there is less (potentially zero) local recycling.

Of course, the movement in Pilsen does have a valid and strong point! CDPH did signal, in the denial of the South Side permit, that a fully enclosed, state of the art, pollution controlled shredder more than a thousand yards from any residence or school wasn't acceptable so why now should the people of Pilsen think that a shredder that operates much closer and with no pollution control be safe?

Any sensible master plan of Chicago would include recycling. The best master plan would place shredders in industrial areas with good access to transportation systems. Pilsen is not ideal but Chicago needs to recycle. It is a climate imperative. Chicago cannot keep "exporting" its recyclables by truck to EJ communities in Wisconsin, Indiana and Ohio. Despite the less than ideal location of Pilsen and despite the reality that the shredder in Pilsen has no ability to capture and destroy VOC's (among other issues) it is certainly better than Chicago not having any capability to recycle citywide.

Hopefully Chicago can reduce its hostility towards recycling and over time try to work towards recycling the right way - a significant distance from residences and schools and with fully integrated pollution control systems. Until that can happen Chicago needs to try to keep Sims open no matter how loudly the EJ neighborhood yells and no matter what stunts they pull with children or hunger strikes or any of the other stunts they are likely to pull.

Thanks  
Matthew Parker

## Community Meeting???

Kylie Follmar <[REDACTED]>

Fri 3/25/2022 3:50 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Dear City of Chicago,

Why has the City STILL not scheduled a Community Meeting for the Sims LARGE RECYCLING FACILITY PERMIT Application? It's been over 4 months since they submitted their application for a LARGE RECYCLING FACILITY PERMIT. Also, why is there no mention on the City's website that Sims is applying for a LARGE RECYCLING FACILITY PERMIT? Sims is NOT simply applying for a renewal of a Class IVB recycling permit as the City claims.

### **Metal Management Midwest, Inc.**

On November 12, 2021, CDPH received a permit renewal application from Metal Management Midwest, Inc. d/b/a Sims Metal Management ("Sims"). The application is for a renewal of the Class IVB recycling permit for the metal shredding facility located at [2500 S. Paulina](#) Steet.

During the initial written comment period, CDPH received numerous comments, indicating a significant degree of public interest in the application. Accordingly, CDPH will schedule a community meeting prior to making a decision on the renewal application. In addition, CDPH will leave the written comment period open until at least five (5) days following the community meeting. Comments may be submitted to [envcomments@cityofchicago.org](mailto:envcomments@cityofchicago.org).



## Inspection of Sims

Liset Menendez [REDACTED] >

Thu 4/14/2022 6:02 PM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Chicago Department of Public Health:

I would like to know the reason why, according to City records, CDPH has been inspecting Sims less frequently over the last few months, particularly since their application for a new Large Recycling Facility permit is still under review and since they are likely shredding more scrap metal than normal due to General Iron being shut down and the permit being denied to RMG. In order for the residents of Pilsen to participate effectively in the upcoming community meeting regarding Sims and their permit application, CDPH should be inspecting Sims more often, not less, given their history of repeatedly violating environmental regulations. Yet in reviewing CDPH inspection records on the City's data portal system, Sims either hasn't been inspected since January 21 or inspection reports are not being posted on the data portal. This despite the damning observations made during that inspection (see below) and despite a pending enforcement action for these issues. In order to ensure that Pilsen area residents are fully informed regarding Sims and their impact on the community, CDPH must conduct inspections more than once every 2 or 3 months and findings of all CDPH inspections must be made available to the public.

CHICAGO DEPARTMENT OF PUBLIC HEALTH ENVIRONMENTAL ENGINEER  
RESPONDED TO AN ANONYMOUS COMPLAINT REGARDING THE FOLLOWING:  
`CAR SHREDDING BUSINESS? AT [2500 S PAULINA ST](#), SIMS METAL MANAGEMENT  
(METAL MANAGEMENT MIDWEST INC). METAL MANAGEMENT MIDWEST INC. DBA  
SIMS METAL MANAGEMENT OPERATES A RECYCLING FACILITY PURSUANT TO A  
CLASS IVB RECYCLING PERMIT (ENVREC104577) ISSUED BY CDPH.WHILE  
CANVASSING THE AREA ON JANUARY 21, 2022, VISIBLE EMISSIONS WERE  
OBSERVED. THE SHREDDER WAS IN OPERATION AND MATERIALS WERE ON THE  
CONVEYOR BELT. CLAW EXCAVATORS WERE SEEN MOVING MATERIALS AROUND  
AND TO THE SHREDDER CONVEYOR BELT. DUST WAS OBSERVED WHEN  
WORKERS MOVED MATERIALS AND TRUCKS DROVE DOWN PAULINA ST.  
EMISSIONS WERE SEEN ESCAPING THE SHREDDER. NO WATER TRUCK OR  
STREET SWEEPER WAS OBSERVED AND THE STREET WAS DRY.THE WIND WAS  
TRAVELING FROM THE WEST-SOUTHWEST AT 2MPH AT 08:45AM  
([WHEATHERCHANNEL.COM](#)). THE TEMPERATURE WAS 18°F AT THE TIME OF THE  
INSPECTION.STRONG ODORS OF SICKLY SWEET, BURNING METAL WAS  
OBSERVED AT THE CITY OF CHICAGO FACILITY ([2352 S ASHLAND AVE](#)) WHICH IS  
DIRECTLY DOWNWIND OF THE SHREDDER (NORTH-NORTHEAST). IT WAS  
UNCOMFORTABLE TO INHALE THIS ODOR.AN ENFORCEMENT ACTION IS  
ALREADY PENDING FOR THESE ISSUES.CDPH WILL CONTINUE TO OBSERVE AND  
INVESTIGATE.

## NO SIMS

Tania Camarena <[REDACTED]>

Thu 4/14/2022 6:36 PM

To: envcomments <envcomments@cityofchicago.org>

 2 attachments (1 MB)

State of California Orders Redwood City Metal Recycler to Investigate Extent of Pollution From its Operations \_ Department of Toxic Substances Control.pdf; Sims Metal Mgmt RWC\_Final CAO\_All Document Packages.pdf;

[Warning: External email]



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D., Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

**CERTIFIED MAIL NO.: 7018 1130 0001 7078 7409**  
(Return Receipt Requested)

March 24, 2022

Mr. Vispi Patel  
Vice President, West Region  
Sims Metal Management  
600 South 4th Street  
Richmond, CA 94804  
[Vispi.Patel@simsmm.com](mailto:Vispi.Patel@simsmm.com)

IN THE MATTER OF: ENFORCEMENT ORDER FOR CORRECTIVE ACTION, SIMS METAL MANAGEMENT, 699 SEAPORT BOULEVARD, REDWOOD CITY, CA 94063 (Docket No. HWCA-FY20/21-003; ENFORCEMENT ORDER)

Dear Mr. Patel:

The Department of Toxic Substances Control (DTSC) received the April 30, 2020, letter (Letter) responding to the draft *Corrective Action Consent Agreement* (CACA) prepared by DTSC for the Sims Metal Management (Sims) metal shredding facility located at 699 Seaport Boulevard, Redwood City, California (Facility). In the Letter, Sims declined to enter into the CACA and claimed that DTSC has no factual or legal basis for DTSC to issue the draft CACA.

DTSC disagrees with Sim's position. Health and Safety Code Section 25187, subdivision (b), authorizes DTSC to issue an order requiring corrective action to address a release of hazardous wastes or hazardous waste constituents at or from a hazardous waste facility. As a state agency charged with protecting public health and the environment, DTSC has authority to require corrective action when it determines that releases of hazardous waste or hazardous waste constituents may have occurred or are continuing to occur from a facility. A "hazardous waste facility" subject to corrective action "includes the entire site that is under the control of an owner or



Mr. Vispi Patel  
March 24, 2022  
Page 3

cc: (via email)

Margaret Rosegay  
Partner  
Pillsbury Winthrop Shaw Pittman LLP  
[Margaret.Rosegay@pillsburylaw.com](mailto:Margaret.Rosegay@pillsburylaw.com)

Sent via Certified Mail:  
No. 7018 1130 0001 7078 7416

Ms. Antonia Becker  
Branch Chief  
Office of Criminal Investigations  
Department of Toxic Substances Control  
[Antonia.Becker@dtsc.ca.gov](mailto:Antonia.Becker@dtsc.ca.gov)

Elias Ferran  
Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
[Elias.Ferran@dtsc.ca.gov](mailto:Elias.Ferran@dtsc.ca.gov)

Kim Walsh  
Unit Chief  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control  
[Kimberly.Walsh@dtsc.ca.gov](mailto:Kimberly.Walsh@dtsc.ca.gov)

Juanita Bacey  
Project Manager  
Site Mitigation & Restoration Program  
Department of Toxic Substances Control  
[Juanita.Bacey@dtsc.ca.gov](mailto:Juanita.Bacey@dtsc.ca.gov)

Yolanda Garza  
Unit Chief  
Site Mitigation & Restoration Program  
Department of Toxic Substances Control  
[Yolanda.Garza@dtsc.ca.gov](mailto:Yolanda.Garza@dtsc.ca.gov)

Leona Winner  
Senior Environmental Scientist  
Site Mitigation & Restoration Program  
Department of Toxic Substances Control  
[Leona.Winner@dtsc.ca.gov](mailto:Leona.Winner@dtsc.ca.gov)

Thomas Mumley  
Assistant Executive Officer  
San Francisco Bay Regional Water  
Quality Control Board  
[Thomas.Mumley@waterboards.ca.gov](mailto:Thomas.Mumley@waterboards.ca.gov)

Scott Connolly  
Environmental Engineer  
US Environmental Protection Agency,  
Region 9  
[Connolly.Scott@epa.gov](mailto:Connolly.Scott@epa.gov)

Carol Allen  
Manager, Engineering  
Bay Area Air Quality Management District  
[Callen@baaqmd.gov](mailto:Callen@baaqmd.gov)

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sims Metal Management  
699 Seaport Boulevard  
Redwood City, CA 94063  
EPA ID: CAD103500880

Respondent:  
Sims Group USA Corporation  
699 Seaport Boulevard  
Redwood City, CA 94063

Docket No. HWCA-FY20/21-003

ENFORCEMENT ORDER FOR  
CORRECTIVE ACTION

Health and Safety Code Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (DTSC or Department) issues this Enforcement Order for Corrective Action (Order) to Sims Group USA Corporation dba Sims Metal Management (Respondent).

1.2. Facility Operation. Respondent is the owner and/or operator of a hazardous waste management facility located at 699 Seaport Boulevard, Redwood City, California (Facility). Beginning in 1986, and continuing through the present, Respondent has operated a metal recycling business which includes without limitation operation of a shredder and other equipment at the Facility.

1.3. Facility Ownership. Sims Group USA Corporation is the property owner of the Facility.

1.4. Hazardous Wastes. Hazardous wastes generated and managed at the Facility include without limitation: metals, volatile organic compounds, polychlorinated biphenyls (PCBs), total petroleum hydrocarbons, polycyclic aromatic hydrocarbons

(PAHs), dioxins, semi-volatile organic compounds, per- and poly-fluoroalkyl substances (PFAS), pesticides and asbestos.

1.4.1. Light-fibrous material (LFM) is material produced during the metal shredding process which can be uncontrollably dispersed offsite due to wind, rain, or other factors if the LFM not adequately managed. LFM resulting from metal shredding operations typically consists of residues such as glass, rubber, automobile fluids, dirt, and plastics from shredded car dashboards, car seats, other non-metallic car parts, household appliances, and other sources. Samples of LFM have been shown to meet the criteria for hazardous waste in California due to concentrations of metals at levels exceeding the toxicity criteria defined in California Code of Regulations, title 22 (22 CCR), section 66261.24(a)(2)(A).

1.5. Jurisdiction. Jurisdiction exists pursuant to Health and Safety Code section 25187, which authorizes DTSC to issue an order to require corrective action when DTSC determines that there is or may be a release of hazardous waste or hazardous waste constituents into the environment from a hazardous waste facility.

1.6. Definition of Terms. The terms used in this Order are as defined in the California Code of Regulations, title 22, section 66260.10, except as otherwise provided.

1.7. Attachments. All attachments to this Order are incorporated herein by this reference.

## FINDINGS OF FACT

2.1. DTSC conducted several inspections at the Facility and noted various violations of hazardous waste laws including the failure to operate the Facility in a

manner to minimize the release of hazardous waste and/or hazardous waste constituents. From March 13, 2012 to April 4, 2012, during four sampling events, DTSC collected 25 LFM/soil samples from the border of the facility and the neighboring sidewalk and properties. Constituents of concern (COCs) detected in the samples include lead, zinc, and copper. Lead, zinc, and copper were detected at maximum concentrations of 1,300 milligrams per kilograms (mg/kg), 130,000 mg/kg, and 14,700 mg/kg respectively, exceeding the Total Threshold Limit Concentration (TTLC) values as specified in California Code of Regulations, Title 22, section 66261.24(a)(2)(A). In addition, lead and zinc were detected at maximum concentrations of 21.2 mg/L and 9,700 mg/L, respectively, exceeding the Soluble Threshold Limit Concentration (STLC) values as specified in California Code of Regulations, Title 22, section 66261.24(a)(2)(A). These sampling results and locations are documented in DTSC's investigation Statement of Facts Report dated June 1, 2012 and Supplemental Statement of Facts dated March 12, 2013.

2.2. On March 13, 2012, DTSC collected two samples of treated shredder waste from within the Facility. Both samples detected metals exceeding TTLC values. Lead, zinc, and copper concentrations in the collected samples exceeded TTLC values and were detected at maximum concentrations of 1,300 mg/kg, 14,000 mg/kg and 14,700 mg/kg, respectively. The sample results and locations are documented in DTSC's Supplemental Statement of Facts in the Investigation of SIMS Group USA Corporation dated March 12, 2013.



2.3. On March 26 and 27, 2019, DTSC collected nine waste samples, including four samples of ashy/fluffy residues, two LFM samples, and one sediment and two water samples from onsite ponds. Seven samples exceeded the TTLC values for lead, zinc, and copper at maximum concentrations of 2,500 milligrams per kilogram (mg/kg), 44,200 mg/kg, and 8,110 mg/kg, respectively. In addition, lead and zinc were detected at maximum concentrations of 70.9 milligrams per liter (mg/L), and 2,240 mg/L, respectively, exceeding the STLC values. The sample results and locations are documented in DTSC's Investigation Report dated June 11, 2019.

2.4. On August 25, 2011, the U.S. Environmental Protection Agency (EPA) collected eight sediment/soil samples from properties bordering the Facility. Seven samples exceeded the TTLC values for lead, zinc, copper, and cadmium, with maximum concentrations at 2,300 mg/kg, 39,000 mg/kg, 4,300 mg/kg, and 130 mg/kg respectively. The sample results and locations are documented in DTSC's Report Statement of Facts in the Investigation of SIMS Group USA Corporation dated June 1, 2012.

2.5. On August 24 and 25, 2011, samples were collected near the adjacent Cargill Salt operations (Cargill) located at 295 Seaport Boulevard, Redwood City, California. Cargill's contractor, Crawford Consulting, Inc., collected a total of six samples. Two samples exceeded DTSC's STLC for lead, zinc, and cadmium. Maximum concentrations were 54.6 mg/L, 559 mg/L, and 1.6 mg/L, respectively. The sample results and locations are documented in DTSC's Report Statement of Facts in the Investigation of SIMS Group USA Corporation dated June 1, 2012.

2.6. On October 22, 2010 and January 17, 2011, Cargill's contractor, Crawford Consulting, Inc., collected a total of four samples of shredder waste. One sample from October 22, 2010, exceeded STLC values for soluble lead and zinc. The sample collected on January 17, 2011 also exceeded the STLC for lead and zinc, and the TTLC for zinc (6,230 mg/kg). Maximum STLC concentrations for lead and zinc were 18.6 mg/L and 426 mg/L, respectively. The sample results and locations are documented in DTSC's Report Statement of Facts in the Investigation of SIMS Group USA Corporation dated June 1, 2012.

2.7. Based on the results of investigations conducted by DTSC, the US EPA, and Crawford Consulting, DTSC concludes that further investigation is needed to determine the nature and extent of any releases of hazardous waste or hazardous waste constituents at the Facility, and surrounding areas, including solid waste management units (SWMUs) and Areas of Concern (AOCs) that either have released or may release hazardous waste or hazardous waste constituents to the environment. The twenty (20) SWMUs and one (1) AOC as listed below:

- SWMU No. 1 Off-site ship loading area and associated conveyor
- SWMU No. 2 Off-site Rail Car Unloading Area
- SWMU No. 3 Truck loading and unloading area
- SWMU No. 4 Shredder and ferrous metal separation system
- SWMU No. 5 Ferrous metal outdoor stockpiles
- SWMU No. 6 Non-Ferrous metal storage bins

- SWMU No. 7 Three covered holding stalls with autoloader (used to store non-ferrous metal storage bin
- SWMU No. 8 Auto Shredder Residue (ASR) Building
- SWMU No. 9 Covered fuel storage area
- SWMU No. 10 Indoor appliance processing area
- SWMU No. 11 Outdoor appliance processing area
- SWMU No. 12 Material Recovery Plant (MRP) and associated covered conveyors
- SWMU No. 13 Equipment maintenance yard
- SWMU No. 14 Fabrication and welding areas
- SWMU No. 15 Equipment wash pad area and associated biological treatment and recycle system
- SWMU No. 16 Four 20,000-gallon tanks and associated piping system
- SWMU No. 17 Pond 1 and associated drainage system
- SWMU No. 18 Pond 2 and associated drainage system
- SWMU No. 19 Hazardous waste and hazardous materials storage area
- SWMU No. 20 Unpaved areas
- AOC No. 1 Onsite/offsite hazardous waste deposition areas impacted by LFM

2.8. Hazardous wastes or hazardous waste constituents have migrated or may migrate from the Facility into the environment through the following pathways: release of airborne particulate matter including LFM to air, deposition of airborne particulate matter

including LFM, and leaching and migration to soil, surface water, storm water, and groundwater. Additional pathways may be identified after further evaluation of the Facility.

2.9. The Facility is located near industrial/commercial properties. The Facility is adjacent to Redwood Creek, Bair Island, Greco Island, and a public recreation trail. Both Bair and Greco Islands are in the southern part of the San Francisco Bay and part of the Don Edwards San Francisco Bay National Wildlife Refuge which is dedicated to preserve and enhance wildlife habitat and protect migratory birds, threatened and endangered species.

2.10. 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. There are approximately seven daycare centers, seven parks, five schools, two hospitals, and various residential properties (single family homes and apartments) located within two miles of the Facility. The Facility is in a census tract that experiences a high pollution burden, as identified by a California Communities Environmental Health Screening Tool (Version 3.0) (CalEnviroScreen) score of 60-65 percentile. CalEnviroScreen is a screening tool used to help identify communities disproportionately burdened by multiple sources of pollution and with population characteristics that make them more sensitive to pollution. In 2016, California Environmental Protection Agency's (CalEPA) Environmental Justice Task Force selected this community for a focused environmental enforcement and regulatory compliance

initiative due to high pollution burden and increased vulnerability to pollution in the community.

### WORK TO BE PERFORMED

Based on the foregoing FINDINGS OF FACT, IT IS HEREBY ORDERED THAT:

3.1. Respondent shall perform the work required by this Order in a manner consistent with: the attached Scopes of Work; DTSC-approved RCRA Facility Investigation Workplan, Corrective Measures Study Workplan, Corrective Measures Implementation Workplan, and any other DTSC-approved Workplans; Health and Safety Code and other applicable state and federal laws and their implementing regulations; and applicable DTSC or United States Environmental Protection Agency (U.S. EPA) guidance documents. Applicable guidance documents include without limitation, the "RCRA Facility Investigation (RFI) Guidance" (Interim Final, May 1989, EPA 530/SW-89-031), "RCRA Groundwater Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1, September 1986), "Test Methods for Evaluating Solid Waste" (SW-846), and "Construction Quality Assurance for Hazardous Waste Land Disposal Facilities" (EPA 530/SW-85-031, July 1986).

#### 3.2. Interim Measures (IM).

3.2.1. Respondent shall evaluate available data and assess the need for interim measures in addition to those specifically required by this Order. Interim measures shall be used whenever possible to control or abate immediate threats to human health and/or the environment, and to prevent and/or minimize the spread of contaminants while long-term corrective action alternatives are being evaluated.

3.2.2. Respondent shall submit a Current Conditions Report to DTSC in accordance with section 3.3.1. of this Order. The Current Conditions Report shall contain an assessment of interim measures. The assessment must include without limitation both previously implemented interim measures and other interim measures that could be implemented at the Facility. The assessment must also identify any additional data needed for making decisions on interim measures. This new data or information shall be collected during the early stages of the RCRA Facility Investigation. DTSC will review the Respondent's assessment and determine which interim measures, if any, the Respondent will implement at the Facility. If deemed appropriate by DTSC, such determination may be deferred until additional data are collected.

3.2.3. In the event Respondents identify an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, Respondents shall notify the DTSC Project Coordinator orally within 48 hours of discovery and notify DTSC in writing within 10 days of discovery summarizing the findings, including without limitation the immediacy and magnitude of the potential threat to human health and/or the environment. Within 30 days of receiving DTSC's written request, Respondent shall submit to DTSC an IM Workplan for approval. The IM Workplan shall include without limitation a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation

appended as Attachment 1. If DTSC determines that immediate action is required, the DTSC Project Coordinator may orally authorize the Respondent to act prior to DTSC's receipt of the IM Workplan. Within three (3) calendar days of DTSC's oral authorization, Respondents shall send a written notification to DTSC confirming the authorized activities including a schedule for completion.

3.2.4. If DTSC identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, DTSC will notify Respondents in writing. Within 30 days of receiving DTSC's written notification, Respondent shall submit to DTSC for approval an IM Workplan that identifies Interim Measures to mitigate the threat. The IM Workplan shall include, without limitation, a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. The IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation appended as Attachment 1. If DTSC determines that immediate action is required, the DTSC Project Coordinator may orally authorize Respondent to act prior to receipt of the IM Workplan. Within three calendar days of DTSC's oral authorization, Respondent shall send a written notification to DTSC confirming the authorized activities including a schedule for completion.

3.2.5. All IM Workplans shall ensure that the Interim Measures are designed to mitigate current or potential threats to human health and/or the environment, and should,

to the extent practicable, be consistent with the objectives of, and contribute to the performance of, any remedy which may be required at the Facility.

3.2.6. Concurrent with the submission of an IM Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with the Scope of Work for a Health and Safety Plan, Attachment 2.

3.2.7. Concurrent with the submission of an IM Workplan, Respondent shall submit to DTSC a Community Profile for DTSC approval in accordance with Attachment 3. Based on the information provided in the Community Profile, if DTSC determines that there is a high level of community concern about the Facility, DTSC may require Respondent to prepare a Public Participation Plan.

3.2.8. As directed by DTSC and/or within 90 days of DTSC's approval of all required IM documents, Respondent shall provide an appropriate, sufficient financial assurance mechanism for corrective action to DTSC. The financial assurance mechanism must consist of, and satisfy, one of the options specified in California Code of Regulation section 66264.143 as applicable. Respondent shall establish the financial assurance mechanism to allow DTSC access to the funds to undertake the interim measures implementation tasks if Respondent is unable or unwilling to undertake one or more of the required tasks. If Respondent proposes to use the financial test or corporate guarantee as the financial assurance mechanism for corrective action, Respondent shall also establish a process that allows DTSC access to the funds to undertake interim measures implementation tasks if DTSC determines that Respondent is unable or



unwilling to undertake one or more of the required tasks. Any financial assurance mechanism or process proposed by Respondent shall be subject to DTSC's approval.

3.3. Facility Investigation (FI).

3.3.1. Within 60 days of the effective date of this Order, Respondent shall submit to DTSC a Current Conditions Report and a Workplan for a Facility Investigation ("FI Workplan"). The Current Conditions Report and FI Workplan are subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for a Facility Investigation contained in Attachment 4. DTSC will review the Current Conditions Report and FI Workplan and notify Respondent in writing of DTSC's approval or disapproval in accordance with Section 4.2.

3.3.2. The FI Workplan shall detail the methodology to:

- (1) Gather data needed to make decisions on interim measures/  
stabilization during the early phases of the RCRA Facility Investigation;
- (2) Identify and characterize all sources of contamination;
- (3) Define the nature, degree and extent of contamination;
- (4) Define the rate of movement and direction of contamination flow;
- (5) Characterize the potential pathways of contaminant migration;
- (6) Identify actual or potential human and/or ecological receptors; and
- (7) Support development of alternatives from which a corrective measure  
will be selected by DTSC. A specific schedule for implementation of all  
activities shall be included in the FI Workplan.

3.3.3. Respondent shall submit a FI Report to DTSC for approval in accordance with DTSC-approved FI Workplan schedule. The FI Report shall be developed in a manner consistent with the Scope of Work for a Facility Investigation contained in Attachment 4. If there is a phased investigation, separate FI Reports for each phase and a report that summarizes the findings from all phases of the FI must be submitted to DTSC. DTSC will review the FI Report(s) and notify the Respondent in writing of DTSC's approval or disapproval in accordance with Section 4.2.

3.3.4. Concurrent with the submission of a FI Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2. If Workplans for both an IM and FI are required by this Order, the Respondent may submit a single Health and Safety Plan that addresses the combined IM and FI activities.

3.3.5. Respondent shall submit a FI Summary Fact Sheet to DTSC that summarizes the findings from all phases of the FI. The FI Summary Fact Sheet shall be submitted to DTSC in accordance with the schedule contained in the approved FI Workplan. DTSC will review the FI Summary Fact Sheet and notify the Respondent in writing of DTSC's approval or disapproval in accordance with Section 4.2, including any comments and/or modifications. When DTSC approves the FI Summary Fact Sheet, Respondent shall mail the approved FI Summary Fact Sheet to all individuals on the Facility mailing list established pursuant to California Code of Regulations, title 22, section 66271.9(c)(1)(D), within 15 calendar days of receipt of written approval.

3.3.6. Concurrent with the submission of a FI Workplan, Respondent shall submit to DTSC a Community Profile for DTSC approval in accordance with Attachment 3.

Based on the information provided in the Community Profile, if DTSC determines that there is a sufficient level of community concern about the Facility, DTSC may require the Respondent to prepare a Public Participation Plan for DTSC's approval in accordance with Section 4.2.

### 3.4. Risk Assessment

3.4.1. Based on the information available to DTSC, the Respondent may be required to conduct a Risk Assessment to evaluate potential human health risk and ecological risk and to establish site-specific action levels and cleanup standards. If DTSC determines that a Risk Assessment is required, Respondent shall submit to DTSC for approval a Risk Assessment Workplan within 30 days of receipt of DTSC's determination. The Respondent shall submit to DTSC for approval in accordance with Section 4.2 a Risk Assessment Report in accordance with DTSC-approved schedule or upon DTSC's request.

### 3.5. Corrective Measures Study (CMS)

3.5.1. Respondent shall prepare a Corrective Measures Study if contaminant concentrations exceed current health-based action levels and/or if DTSC determines that the contaminant releases pose a potential threat to human health and/or the environment.

3.5.2. Within 30 days of DTSC's approval of the FI Report (or of the Respondent's receipt of a written request from DTSC), Respondent shall submit a CMS Workplan to DTSC. The CMS Workplan is subject to DTSC's approval in accordance with Section 4.2

and shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 5.

3.5.3. The CMS Workplan shall detail the methodology for developing and evaluating potential corrective measures to remedy any contamination at the Facility. The CMS Workplan shall identify the potential corrective measures, including without limitation any innovative technologies, that may be used for the containment, treatment, remediation, and/or disposal of contamination.

3.5.4. The Respondent shall prepare treatability studies for all potential corrective measures that involve treatment except where the Respondent can demonstrate to DTSC's satisfaction that they are not needed. The CMS Workplan shall include, at a minimum and without limitation, a summary of the proposed treatability study including a conceptual design, a schedule for submitting a treatability study workplan, or the Respondent's justification that is acceptable to DTSC for not proposing a treatability study.

3.5.5. Respondent shall submit a CMS Report to DTSC for review and approval in accordance with DTSC-approved CMS Workplan schedule. The CMS Report shall be developed in a manner consistent with the Scope of Work for a Corrective Measures Study contained in Attachment 5. DTSC will review the CMS Report and notify the Respondent in writing of DTSC's approval or disapproval in accordance with Section 4.2.

3.6. Remedy Selection.

3.6.1. DTSC will provide the public with an opportunity to review and comment on the final draft of the CMS Report, DTSC's proposed corrective measures for the Facility, and DTSC's justification for selection of such corrective measures.

3.6.2. Following the public comment period, DTSC may select final corrective measures or require the Respondent to revise the CMS Report and/or perform additional corrective measures studies.

3.6.3. DTSC will notify the Respondent of the final corrective measures selected by DTSC in the Final Decision and Response to Comments. The notification will include without limitation DTSC's reasons for selecting the corrective measures.

3.7. Corrective Measures Implementation (CMI).

3.7.1. Within 60 days of the Respondent's receipt of notification of DTSC's selection of the corrective measures, the Respondent shall submit to DTSC a Corrective Measures Implementation (CMI) Workplan. The CMI Workplan is subject to approval by DTSC and shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 6.

3.7.2. Concurrent with the submission of a CMI Workplan, Respondent shall submit to DTSC a Health and Safety Plan in accordance with Attachment 2.

3.7.3. If requested by DTSC, concurrent with the submission of a CMI Workplan, the Respondent shall submit to DTSC a Community Profile for DTSC approval in accordance with Attachment 3. Based on the information provided in the Community Profile, if DTSC determines that there is a sufficient level of community concern about the

Facility, DTSC may require the Respondent to prepare a Public Participation Plan for DTSC's approval in accordance with Section 4.2.

3.7.4. The CMI program shall be designed to facilitate the design, construction, operation, maintenance, and monitoring of corrective measures at the Facility. In accordance with the schedule contained in the approved CMI Workplan, the Respondent shall submit to DTSC the documents listed below. These documents shall be developed in a manner consistent with the Scope of Work for Corrective Measures Implementation contained in Attachment 6.

- Operation and Maintenance Plan
- Draft Plans and Specifications
- Final Plans and Specifications
- Construction Workplan
- Construction Completion Report
- Corrective Measures Completion Report

3.7.5. DTSC will review all required CMI documents and notify the Respondent in writing of DTSC's approval or disapproval in accordance with Section 4.2.

3.7.6. Respondent shall provide an appropriate, sufficient financial assurance mechanism for corrective action to DTSC within 90 days of DTSC's approval of a CMI workplan, IM Workplan, or a DTSC-approved equivalent. The financial assurance mechanism must consist of, and satisfy, one of the options specified in California Code of Regulation, Title 22, section 66264.143 as applicable. The Respondent shall establish the financial assurance mechanism to allow DTSC access to the funds to undertake the

corrective measures implementation tasks if the Respondent is unable or unwilling to undertake one or more of the required tasks. If the Respondent proposes to use the financial test or corporate guarantee as the financial assurance mechanism for corrective action, the Respondent shall also establish a process that allows DTSC access to the funds to undertake corrective measures implementation tasks if DTSC determines that the Respondent is unable or unwilling to undertake one or more of the required tasks. Any financial assurance mechanism or process proposed by the Respondent shall be subject to DTSC's approval.

#### 4.0 OTHER REQUIREMENTS AND PROVISIONS

4.1. Project Coordinator. Within 14 days of the effective date of this Order, DTSC and Respondent shall each designate a Project Coordinator and shall notify each other in writing of the Project Coordinator selected. Each Project Coordinator shall be responsible for overseeing the implementation of this Order and for designating a person or persons to act in that Project Coordinator's absence. All communications between the Respondent and DTSC, and all documents, report approvals, and other correspondence concerning the activities performed pursuant to this Order, shall be directed through the Project Coordinators. Either Respondent or DTSC may change its Project Coordinator with at least seven days prior written notice.

#### 4.2. Department Approval.

4.2.1. Respondent shall revise any workplan, report, specification, schedule, or other submission in accordance with DTSC's written comments. The Respondent shall submit to DTSC any revised documents by the due date specified by DTSC. Revised

submittals are subject to DTSC's approval or disapproval, and, if disapproved, shall be further revised in accordance with DTSC's written comments and resubmitted, with this process being repeated until DTSC approval is obtained.

4.2.2. Upon receipt of DTSC's written approval, Respondent shall commence work and implement any approved workplan in accordance with the schedule and provisions contained therein.

4.2.3. Any DTSC-approved workplan, report, specification, schedule, or other submission required by this Order shall be deemed incorporated into this Order.

4.2.4. Verbal advice, suggestions, or comments given by DTSC representatives does not constitute an official approval or decision, shall not be relied on by the Respondent, and shall not be binding on DTSC.

4.3. Submittals.

4.3.1. Beginning with the first full month following the effective date of this Order, the Respondent shall provide DTSC with quarterly progress reports of corrective action activities conducted pursuant to this Order. Progress reports are due on the 5th day of each month when reports are due. The progress reports shall conform to the Scope of Work for Progress Reports contained in Attachment 7. DTSC may adjust the frequency of progress reporting to be consistent with site-specific activities.

4.3.2. Any report or other document submitted by the Respondent pursuant to this Order shall be signed and certified by the project coordinator, a responsible corporate officer, or a duly authorized representative.

4.3.3. The certification required above, shall be in the following form:



“I certify that the information contained in or accompanying this submittal is true, accurate, and complete. As to those portions of this submittal for which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared at my direction in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

4.3.4. Respondent shall provide two hard copies and one electronic copy of all documents, including without limitation workplans, reports, and correspondence of 15 pages or longer. Submittals specifically exempted from this copy requirement are all progress reports and correspondence of fewer than 15 pages, of which one hard copy and one electronic copy are required.

4.3.5. Unless otherwise specified, all reports, correspondence, approvals, disapprovals, notices, or other submissions relating to this Order shall be in writing and shall be sent to the current Project Coordinators.

4.4. Proposed Contractor/Consultant.

All work performed pursuant to this Order shall be under the direction and supervision of a professional engineer or registered geologist, registered in California, with expertise in hazardous waste site cleanup. The Respondent's contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities. Within 14 days of the effective date of this Order, the Respondent shall notify the DTSC Project Coordinator in writing of the name, title, and qualifications of the professional engineer or registered geologist and of any contractors or consultants and their personnel to be used in carrying out the requirements of this Order. DTSC may disapprove of the Respondent's contractor and/or consultant.

4.5. Quality Assurance.

4.5.1. All sampling and analyses performed by the Respondent under this Order shall follow all applicable DTSC and U.S. EPA guidance for sampling and analysis. Workplans shall contain quality assurance/quality control and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the approved workplans must be approved by DTSC prior to implementation, must be documented, including reasons for the deviations, and must be reported in the applicable report (e.g., FI Report).

4.5.2. The names, addresses, and telephone numbers of the California State certified analytical laboratories the Respondent proposes to use must be specified in the applicable workplans approved in accordance with Section 4.2.

4.5.3. All workplans required under this Order shall include data quality objectives for each data collection activity to ensure that data of known and appropriate quality are obtained, and that data are sufficient to support their intended uses.

4.5.4. The Respondent shall monitor to ensure that high quality data are obtained by its consultant or contract laboratories. The Respondent shall ensure that laboratories used for analysis perform such analysis according to the latest approved edition of "Test Methods for Evaluating Solid Waste, (SW-846)", or other methods satisfactory to DTSC. If methods other than U.S. EPA methods are to be used, or if modifications are made to U.S. EPA methods, Respondents shall specify all such protocols in the applicable workplan (e.g., FI Workplan). DTSC may reject any data that do not meet the requirements of the approved workplan, U.S. EPA analytical methods, or approved quality assurance/quality control procedures, and may require resampling and re-analysis.

4.5.5. The Respondent shall ensure that the California State certified laboratories used for analyses have a quality assurance/quality control program. DTSC may conduct a performance and quality assurance/quality control audit of the laboratories chosen by the Respondent before, during, or after sample analyses. Upon request by DTSC, the Respondent shall have its selected laboratory perform analyses of samples provided by DTSC to demonstrate laboratory performance. If the audit reveals deficiencies in a laboratory's performance or quality assurance/quality control procedures, resampling and re-analysis may be required.

4.6. Sampling and Data/Document Availability.

4.6.1. The Respondent shall submit to DTSC upon request the results of all sampling and/or tests or other data generated by its representatives, employees, agents, consultants, or contractors pursuant to this Order.

4.6.2. Notwithstanding any other provisions of this Order, DTSC retains all of its information gathering and inspection authority and rights, including enforcement actions related thereto, under the Health and Safety Code and any other state or federal statutes or regulations.

4.6.3. The Respondent shall notify DTSC in writing at least 7 days prior to beginning each separate phase of field work approved under any workplan required by this Order. If Respondent determines that it must commence emergency field activities without delay, the Respondent may seek an emergency telephone authorization from DTSC Project Coordinator or, if the Project Coordinator is unavailable, from the Project Coordinator's Branch Chief or that Branch Chief's designee, to commence such activities immediately.

4.6.4. At the request of DTSC, the Respondent shall provide or, at DTSC's sole discretion, allow DTSC or DTSC's authorized representative to take, split or duplicate samples of any and all samples collected by the Respondent pursuant to this Order. Similarly, at the request of the Respondent, DTSC will allow the Respondent or the Respondent's authorized representative to take split or duplicate samples of any and all samples collected by DTSC under this Order.

4.7. Access.

4.7.1. Subject to the Facility's reasonable security and safety procedures, the Respondent shall provide DTSC and its representatives, employees, agents, consultants, and contractors access at all reasonable times to the Facility and any other property under the Respondent's control or to which the Respondent reasonably can gain access to which access is conducive to implementation of this Order. The Respondent shall permit DTSC's representatives, employees, agents, consultants, and/or contractors to inspect and copy any and all records, files, photographs, documents, including without limitation all sampling and monitoring data, that pertain to this Order and that are within the possession or under the control of the Respondent or the Respondent's representatives, employees, agents, contractors, or consultants.

4.7.2. To the extent that work being performed pursuant to this Order requires access to properties beyond the Facility property boundary, the Respondent shall use the Respondent's best efforts to obtain access agreements necessary to complete work required by this Order from the current owners of such properties within 30 days of approval of any workplan for which such access is required. Best efforts as used in this paragraph shall include, at a minimum and without limitation, a letter by certified mail from the Respondent to the present owner or owners of such property requesting an agreement to allow the Respondent and DTSC and its authorized representatives access to such property and offering the payment by the Respondent of reasonable sums of money in consideration of granting access. Any such access agreement shall provide for access to DTSC and DTSC's representatives, employees, agents, consultants and/or

contractors. The Respondent shall provide DTSC's Project Coordinator with a copy of any access agreements. In the event an agreement for access is not obtained within 30 days of approval of any workplan for which access is required, or of the date that the need for access becomes known to the Respondent, the Respondent shall notify DTSC in writing within 14 days thereafter regarding both the efforts undertaken to obtain access and its failure to obtain such agreements. DTSC may, at its discretion, assist the Respondent in obtaining access.

4.7.3. Nothing in this section limits or otherwise affects DTSC's right of access and entry pursuant to any applicable local, state, or federal law or regulation, or otherwise.

4.7.4. Nothing in this Order shall be construed to limit or otherwise affect the Respondent's liability and obligation to perform corrective action including corrective action beyond the Facility boundary.

4.8. Record Preservation.

4.8.1. The Respondent shall retain, during the implementation of this Order and for a minimum of six years thereafter (or such longer time period as may otherwise be required by any applicable law, regulation, or otherwise), all data, records, and documents that relate in any way to the implementation of this Order or to hazardous waste management and/or disposal at the Facility. The Respondent shall notify DTSC in writing 90 days prior to the destruction of any such records, and the Respondent shall provide DTSC with the opportunity to take possession of any such records. Such written

notification shall reference the effective date, caption, and docket number of this Order and shall be addressed to:

**Ms. Julie Pettijohn, Branch Chief**  
**Site Mitigation and Restoration Program**  
**Department of Toxic Substances Control**  
**700 Heinz Avenue, Suite 200**  
**Berkeley, California 94710**

4.8.2. If Respondent retains or employs any agent, consultant, or contractor for the purpose of complying with the requirements of this Order, the Respondent shall require any such agents, consultants, or contractors to provide the Respondent a copy of all documents produced pursuant to this Order.

4.8.3. All documents pertaining to this Order shall be stored in a central location at the Facility to afford ease of access by DTSC and DTSC's representatives, employees, agents, consultants and/or contractors.

4.9. Change in Ownership. No change in ownership or corporate or partnership status relating to the Facility shall in any way alter the Respondent's responsibilities under this Order. No conveyance of title, easement, or other interest in the Facility, or a portion of the Facility, shall affect the Respondent's obligations under this Order. Unless DTSC agrees that such obligations may be transferred to a third party, the Respondent shall be responsible for and liable for any failure to carry out all activities required of the Respondent by the terms and conditions of this Order, regardless of Respondent's use of

representatives, employees, agents, contractors, or consultants to perform any such tasks.

4.10. Notice to Contractors and Successors. The Respondent shall provide a copy of this Order to all representatives, agents, contractors, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Order and shall condition all such contracts on compliance with the terms of this Order. The Respondent shall give written notice of this Order to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify DTSC at least seven days prior to such transfer.

4.11. Compliance with Applicable Laws. All actions required to be taken pursuant to this Order shall be undertaken in accordance with the applicable requirements of all local, state, and federal laws and regulations. The Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

4.12. Costs. The Respondent is liable for all costs associated with the implementation of this Order including all costs incurred by DTSC in overseeing the work required by this Order.

4.13. Endangerment during Implementation. In the event that DTSC determines that any circumstances or activities (whether or not pursued in compliance with this Order) may pose an imminent or substantial endangerment to the health or welfare of people at the Facility or in the surrounding area or to the environment, DTSC at its sole discretion may order the Respondent to stop further implementation of this Order for such



period of time as needed to abate the endangerment. Any deadline in this Order directly affected by an Order to Stop Work under this section shall be extended for the term of the Order to Stop Work.

4.14. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of the Respondent. Notwithstanding compliance with the terms of this Order, the Respondent may be required to take further actions as are necessary to protect public health, welfare, or the environment.

4.15. Government Liabilities. The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by the Respondent or related parties specified in section 4.19 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or the Respondent's representatives, employees, agents, consultants and/or contractors in carrying out activities pursuant to the Order.

4.16. Additional Enforcement Actions. By issuance of this Order, DTSC does not waive the right to take further enforcement actions.

4.17. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by the Respondent pursuant to this Order are incorporated in this Order upon approval by DTSC.

4.18. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject the Respondent to costs, penalties, and/or punitive damages, including without limitation any costs incurred by DTSC or other government agencies as a result

of such failure as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.19. Parties Bound. This Order shall apply to and be binding upon the Respondent, and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including without limitation individuals, partners, and subsidiary and parent corporations.

4.20. Compliance with Waste Discharge Requirements. Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

4.21. Submittal Summary. Below is a summary of the major reporting requirements contained in this Order. The summary is provided as a general guide and does not contain all requirements. Please refer to the specific language of this Order for all the requirements. Unless otherwise specified, all timeframes are calendar days.

| <u>Section</u> | <u>Action</u>   | <u>Due Date</u>                                  |
|----------------|---|--|
| 3.2.2.         | Submit a Current Conditions Report  | 60 days of the effective date of this Order      |
| 3.2.3          | Submit Interim Measures Workplan, Health and Safety Plan, and Public Involvement Plan | 45 days of receiving DTSC's written request      |
| 3.2.4.         | Notify DTSC orally of potential threats to human health                               | 48 hours after discovery                         |
|                | Notify DTSC in writing of potential threats to human health                           | 10 days after discovery                          |
|                | Submit an IM Workplan   | 30 days of receiving DTSC's written notification |

| <u>Section</u>           | <u>Action</u>   | <u>Due Date</u>   |
|--------------------------|---|---|
| 3.2.4                    | Submit an IM Workplan   | 30 days of receiving DTSC's written notification  |
| 3.3                      | Submit a FI Workplan  | 60 days of the effective date of this Order   |
| 3.4.1                    | Submit a Risk Assessment Workplan   | 30 days of receipt of DTSC's determination  |
| 3.5.2                    | Submit a CMS Workplan   | 30 days of DTSC's approval of the FI Report or of Respondent's receipt of a written request from DTSC |
| 3.7.1.<br>3.7.2<br>3.7.3 | Submit CMI Workplan, Health and Safety Plan, Community Profile or Public Participation Plan | 60 days from receipt of notification of DTSC selection of a corrective measure                        |
| 3.7.6                    | Submit Financial Assurance mechanism  | 90 days of DTSC's approval of an IM workplan or CMI Workplan  |
| 4.1.                     | Designate Project Coordinator and notify DTSC in writing                                    | 14 days from effective date of Order  |
| 4.2.2                    | Implement approved workplans  | In accordance with schedules contained in the approved workplans                                      |
| 4.3.1                    | Submit first Progress Report  | 5th day of the month following the effective date of Order  |
|                          | Submit Progress Reports   | Quarterly   |
| 4.4.                     | Notify DTSC in writing of contractors to carry out terms of Order                           | 14 days from effective date of Order  |
| 4.6.3.                   | Notify DTSC of when field work starts   | 7 days before each phase of field work  |

RIGHT TO A HEARING

5. You may request a hearing to challenge this Order. Appeal procedures are described in the attached Statement to the Respondent.

EFFECTIVE DATE

6. This Order is final and effective 20 calendar days from the date of mailing, which is the date of the cover letter transmitting the Order to you, unless you request a hearing in writing within the 20-day period.

Date of Issuance 3/21/2022



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Steven Becker, Branch Chief  
SSFL and LABRIC Branch  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

## ATTACHMENT 1

### SCOPE OF WORK FOR INTERIM MEASURES IMPLEMENTATION

#### PURPOSE

Interim measures are actions to control and/or eliminate releases of hazardous waste and/or hazardous constituents from a facility prior to the implementation of a final corrective measure. Interim measures must be used whenever possible to achieve the goal of stabilization which is to control or abate threats to human health and/or the environment, and to prevent or minimize the spread of contaminants while long-term corrective action alternatives are being evaluated.

#### SCOPE

The documents required for Interim Measures (IM) are, unless the Department of Toxic Substances Control (DTSC) specifies otherwise, an IM Workplan, an Operation and Maintenance Plan and IM Plans and Specifications. The scope of work (SOW) for each document is specified below. The SOWs are intended to be flexible documents capable of addressing both simple and complex site situations. If Respondent can justify, to the satisfaction of DTSC, that a plan or portions thereof are not needed in the given site-specific situation, then DTSC may waive that requirement.

The scope and substance of interim measures should be focused to fit the site-specific situation and be balanced against the need to take quick action.

DTSC may require Respondent to conduct additional studies beyond what is discussed in the SOWs in order to support the IM program. Respondent will furnish all personnel, materials, and services necessary to conduct the additional tasks.

#### A. Interim Measures Workplan

Respondent shall prepare an IM Workplan that evaluates interim measure options and clearly describes the proposed interim measure, the key components or elements that are needed, describes the designer's vision of the interim measure in the form of conceptual drawings and schematics, and includes procedures and schedules for implementing the interim measure(s). The IM Workplan must be approved by DTSC prior to implementation. The IM Workplan must, at a minimum and without limitation, include the following elements:

1. Introduction/Purpose

Describe the purpose of the document and provide a summary of the project.

## 2. Conceptual Site Model of Contaminant Migration

Respondent must present a conceptual site model of contaminant migration to develop a preliminary understanding of the site's potential risks to human health and the environment, and to assist in developing the interim measures and/or facility investigation. The conceptual site model presents information about site conditions and potential impacts to receptors and may be updated as new information is obtained. The information can be provided in a schematic presentation or pictorially. The conceptual site model should illustrate possible contaminant (including without limitation dust, and debris,) transport mechanisms and exposure pathways from various media that may be affected: air, soil, sediments, and water, including without limitation soil vapor, groundwater, and surface water.

The conceptual site model consists of a working hypothesis of how the contaminants may move from the release source to the receptor population. The conceptual site model is also developed by looking at the applicable physical parameters (e.g., water solubility, density, Henry's Law Constant, etc.) for each contaminant and assessing how the contaminant may migrate given the existing site conditions (geologic features, depth to ground water, etc.). Describe the phase (water, soil, gas, non-aqueous) and location where contaminants including without limitation dust, and debris are likely to be found. This analysis may have already been done as part of earlier work (e.g., Current Conditions Report). If this is the case, then provide a summary of the conceptual site model with a reference to the earlier document.

## 3. Evaluation of Interim Measure Alternatives

List, describe and evaluate interim measure alternatives that have the potential to stabilize the facility. Propose interim measures for implementation and provide rationale for the selection. Document the reasons for excluding any interim measure alternatives.

## 4. Description of Interim Measures

Qualitatively describe what the proposed interim measure is supposed to do and how it will function at the facility.

## 5. Data Sufficiency

Review existing data needed to support the design effort and establish whether there are sufficient accurate data available for this purpose. Respondent must summarize the assessment findings and specify any additional data needed to complete the interim measure design. DTSC may require, or Respondent may propose that sampling and analysis plans and/or treatability study workplans be developed to obtain the additional

data. Submittal times for any new sampling and analysis plans and/or treatability study workplans must be included in the project schedule.

6. Project Management

Describe the levels of authority and responsibility (include organization chart), lines of communication and a description of the qualifications of key personnel who will direct the interim measure design and implementation effort (including contractor personnel).

7. Project Schedule

The project schedule must specify all significant steps in the process, when any key documents (e.g., plans and specifications, operation, and maintenance plan) are to be submitted to DTSC and when the interim measure is to be implemented.

8. Design Basis

Discuss the process and methods used to design all major components of the interim measure. Discuss the significant assumptions made and possible sources of error. Provide justification for the assumptions.

9. Conceptual Process/Schematic Diagrams.

10. Site plan showing preliminary plant layout and/or treatment and storage area.

11. Tables listing number and type of major components with approximate dimensions.

12. Tables giving preliminary mass balances.

13. Site safety and security provisions (e.g., fences, fire control, etc.).

14. Waste Management Practices

Describe the wastes generated by the construction of the interim measure and how they will be managed. Also discuss drainage and indicate how rainwater runoff will be managed.

15. Required Permits

List and describe the permits needed to construct the interim measure. Indicate on the project schedule when the permit applications will be submitted to the applicable agencies and an estimate of the permit issuance date.

## 16. Sampling and Monitoring

Sampling and monitoring activities may be needed for design and during construction and operation of the interim measure. If sampling activities are necessary, the IM Workplan must include without limitation a complete sampling and analysis section which specifies at a minimum the following information:

- a. Description and purpose of monitoring tasks;
- b. Data quality objectives;
- c. Analytical test methods, method detection limits, and practical quantitation limits;
- d. Name of analytical laboratory;
- e. Laboratory quality control (include laboratory QA/QC procedures in appendices)
- f. Sample collection procedures and equipment;
- g. Field quality control procedures:
  - duplicates (10% of all field samples)
  - blanks (field, equipment, etc.)
  - equipment calibration and maintenance
  - equipment decontamination
  - sample containers
  - sample preservation
  - sample holding times (must be specified)
  - sample packaging and shipment
  - sample documentation (field notebooks, sample labeling, etc.);
  - chain of custody;
- h. Criteria for data acceptance and rejection; and
- i. Schedule of monitoring frequency.

Respondent shall follow all DTSC and USEPA guidance for sampling and analysis. DTSC may request that the sampling and analysis section be a separate document.

## 17. Appendices including without limitation:

Design Data - Tabulations of significant data used in the design effort;

Equations - List and describe the source of major equations used in the design process;

Sample Calculations - Present and explain one example calculation for significant calculations; and

Laboratory or Field Test Results.

## **B. Interim Measures Operation and Maintenance Plan**

Respondent shall prepare an Interim Measures Operation and Maintenance (O&M) Plan



that includes a strategy and procedures for performing operations, maintenance, and monitoring of the interim measure(s). An Interim Measures O&M Plan shall be submitted to DTSC simultaneously with the Plans and Specifications. The Interim Measures O&M Plan shall, at a minimum and without limitation, include the following elements:

1. Purpose/Approach

Describe the purpose of the document and provide a summary of the project.

2. Project Management

Describe the levels of authority and responsibility (include organization chart), lines of communication and a description of the qualifications of key personnel who will operate and maintain the interim measure(s) (including contractor personnel).

3. System Description

Describe the interim measure and identify significant equipment.

4. Personnel Training

Describe the training process for Interim Measures O&M personnel. Respondent shall prepare and include without limitation in the technical specifications governing treatment systems, contractor requirements for providing: appropriate service visits by experienced personnel to supervise the installation, adjustment, start up and operation of the treatment systems, and training covering appropriate operational procedures once the start-up has been successfully accomplished.

5. Start-Up Procedures

Describe system start-up procedures including any operational testing.

6. Operation and Maintenance Procedures

Describe normal O&M procedures including without limitation:

- a. Description of tasks for operation;
- b. Description of tasks for maintenance;
- c. Description of prescribed treatment or operation condition, and
- d. Schedule showing frequency of each O&M task.

7. Replacement schedule for equipment and installed components.

8. Waste Management Practices

Describe the wastes generated by operation of the interim measure and how they will be managed. Also discuss drainage and indicate how rainwater runoff will be managed.

## 9. Sampling and Monitoring

Sampling and monitoring activities may be needed for effective operation and maintenance of the interim measure. If sampling activities are necessary, the Interim Measures O&M plan must include without limitation a complete sampling and analysis section which specifies at a minimum the following information:

- a. Description and purpose of monitoring tasks;
- b. Data quality objectives;
- c. Analytical test methods, method detection limits, and practical quantitation limits;
- d. Name of analytical laboratory;
- e. Laboratory quality control (include laboratory QA/QC procedures in appendices)
- f. Sample collection procedures and equipment;
- g. Field quality control procedures:
  - duplicates (10% of all field samples)
  - blanks (field, equipment, etc.)
  - equipment calibration and maintenance
  - equipment decontamination
  - sample containers
  - sample preservation
  - sample holding times (must be specified)
  - sample packaging and shipment
  - sample documentation (field notebooks, sample labeling, etc.);
  - chain of custody;
- h. Criteria for data acceptance and rejection; and
- i. Schedule of monitoring frequency.

Respondent shall follow all DTSC and USEPA guidance for sampling and analysis. DTSC may request that the sampling and analysis section be a separate document.

## 10. Interim Measures O&M Contingency Procedures:

- a. Procedures to address system breakdowns and operational problems including a list of redundant and emergency back-up equipment and procedures;
- b. Should the interim measure suffer complete failure, specify alternate procedures to prevent release or threatened releases of hazardous substances, pollutants or contaminants which may endanger public health and/or the environment or exceed cleanup standards; and

- c. The Interim Measures O&M Plan must specify that, in the event of a major breakdown and/or complete failure of the interim measure (includes emergency situations), Respondent will orally notify DTSC within 24 hours of the event and will notify DTSC in writing within 72 hours of the event. The written notification must, at a minimum, specify what happened, what response action is being taken and/or is planned, and any potential impacts on human health and the environment.

#### 11. Data Management and Documentation Requirements

Describe how analytical data and results will be evaluated, documented, and managed, including development of an analytical database. State the criteria that will be used by the project team to review and determine the quality of data.

The O&M Plan shall specify that Respondent collect and maintain the following information:

- a. Progress Report Information
  - Work Accomplishments (e.g., performance levels achieved, hours of treatment operation, treated and/or excavated volumes, concentration of contaminants in treated and/or excavated volumes, nature and volume of wastes generated, etc.).
  - Record of significant activities (e.g., sampling events, inspections, problems encountered, action taken to rectify problems, etc.).
- b. Monitoring and laboratory data;
- c. Records of operating costs; and
- d. Personnel, maintenance, and inspection records.

DTSC may require that Respondent submit additional reports that evaluate the effectiveness of the interim measure in meeting the stabilization goal.

#### **C. Interim Measures Plans and Specifications**

Respondent shall prepare Plans and Specifications for the interim measure that are based on the conceptual design but include additional detail. The Plans and Specifications shall be submitted to DTSC simultaneously with the Operation and Maintenance Plan. The design package must include without limitation drawings and specifications needed to construct the interim measure. Depending on the nature of the interim measure, many different types of drawings and specifications may be needed. Some of the elements that may be required are:

- General Site Plans
- Process Flow Diagrams
- Mechanical Drawings
- Electrical Drawings
- Structural Drawings
- Piping and Instrumentation Diagrams
- Excavation and Earthwork Drawings
- Equipment Lists
- Site Preparation and Field Work Standards
- Preliminary Specifications for Equipment and Material

General correlation between drawings and technical specifications is a basic requirement of any set of working construction plans and specifications. Before submitting the project specifications to DTSC, Respondent shall:

- a. Proofread the specifications for accuracy and consistency with the conceptual design; and
- b. Coordinate and cross-check the specifications and drawings.

## ATTACHMENT 2

### SCOPE OF WORK FOR HEALTH AND SAFETY PLAN

Department of Toxic Substances Control (DTSC) may require that Respondent prepare a Health and Safety Plan for any corrective action field activity (e.g., soil or ground water sampling, drilling, construction, operation, and maintenance of a treatment system, etc.). The Health and Safety Plan must, at a minimum and without limitation, include the following elements:

#### 1. Objectives

Describe the goals and objectives of the Health and Safety Plan (must apply to on-site personnel and visitors). The Health and Safety Plan must be consistent with the facility Contingency Plan, OSHA Regulations, NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (1985), all state and local regulations and other DTSC guidance as provided.

#### 2. Hazard Assessment

List and describe the potentially hazardous substances that could be encountered by field personnel during field activities.

Discuss the following:

- Inhalation Hazards
- Dermal Exposure
- Ingestion Hazards
- Physical Hazards
- Overall Hazard Rating

Include without limitation a table that, at a minimum, lists: Known Contaminants, Highest Observed Concentration, Media, Symptoms/Effects of Acute Exposure.

#### 3. Personal Protection/Monitoring Equipment

For each field task, describe personal protection levels and identify all monitoring equipment. Describe any action levels and corresponding response actions (i.e., when will levels of safety be upgraded).

Describe decontamination procedures and areas.

#### 4. Site Organization and Emergency Contacts

List and identify all contacts (include phone numbers). Identify the nearest hospital and provide a regional map showing the shortest route from the facility to the hospital. Describe site emergency procedures and any site safety organizations. Include evacuation procedures for neighbors (where applicable).

Include a facility Map showing emergency station locations (first aid, eye wash areas, etc.).

## **ATTACHMENT 3**

### **COMMUNITY PROFILE OUTLINE**

The following items should be included without limitation in the Community Profile:

#### **SITE DESCRIPTION**

- Description of proposed project.
- Map.
- Description of the site/facility location.
- Description of the surrounding land uses and environmental resources (including proximity to residential housing, schools, churches, etc.).
- Visibility of the site to neighbors.
- Demographics of community in which the site is located (e.g., socioeconomic level, ethnic composition, specific language considerations, etc.). This information may be found in local libraries (e.g., census records).

#### **LOCAL INTEREST**

- Contacts with community members - any inquiries from community members, groups, organizations, etc. (include without limitation names, phone numbers, and addresses on the key contact list).
- Community interactions - any current meetings, events, presentations, etc.
- Media coverage - any newspaper, magazine, television, etc., coverage.
- Government contacts - city and county staff, state, and local elected officials.

#### **KEY CONTACT LIST**

- Names, addresses, and phone numbers of city manager, city/county planning department staff, local elected officials, and other community members with whom previous contact has been made.

#### **PAST PUBLIC INVOLVEMENT ACTIVITIES**

- Any ad hoc committees, community meetings, workshops, letters, newsletters, etc., about the site or similar activity.

#### KEY ISSUES AND CONCERNS

- Any specific concerns/issues raised by the community regarding the site/facility or any activities performed on the site/facility.
- Any anticipated concerns/issues regarding the site/facility.
- Any general environmental concerns/issues in the community.



## **ATTACHMENT 4**

### **SCOPE OF WORK FOR A FACILITY INVESTIGATION**

#### **PURPOSE**

The purpose of this Facility Investigation (FI) is to determine the nature and extent of releases of hazardous waste or constituents from regulated units, solid waste management units, and other source areas at the Facility and to gather all necessary data to support the Corrective Measures Study. The FI must include without limitation characterization of the facility (processes, waste management, etc.), environmental setting, source areas, nature and extent of contamination, migration pathways (transport mechanisms) and all potential receptors.

#### **SCOPE**

The documents required for a FI are, unless the Department of Toxic Substances Control (DTSC) specifies otherwise, a Current Conditions Report, a Facility Investigation Workplan and a Facility Investigation Report. The scope of work (SOW) for each document is specified below. The SOWs are intended to be flexible documents capable of addressing both simple and complex site situations. If Respondent can justify, to the satisfaction of DTSC, that a plan and/or report or portions thereof are not needed in the given site-specific situation, then DTSC may waive that requirement.

The scope and substance of the FI should be focused to fit the complexity of the site-specific situation. It is anticipated that Respondent of sites with complex environmental problems may need more extensive FI's than other facilities with less complex problems.

DTSC may require Respondent to conduct additional studies beyond what is discussed in the SOWs in order to meet the objectives of the FI. Respondent will furnish all personnel, materials, and services necessary to conduct the additional tasks.

#### **A. Current Conditions Report**

The Current Conditions Report must describe existing information pertinent to the facility including without limitation operations, processes, waste management, geology, hydrogeology, contamination, migration pathways, potential receptor populations and interim corrective measures. The required format for a current conditions report is described below. If some of this information does not exist, so indicate in the applicable section.

##### **1. Introduction**

## 1.1 Purpose

Describe the purpose of the current conditions report (e.g., summary and evaluation of existing information related to the facility; required as a component of FI).

## 1.2 Organization of Report

Describe how the report is organized.

## 2. Facility Description

Summarize background, current operations, waste management and products produced at the facility. Include without limitation a map that shows the general geographic location of the facility.

Describe current facility structures including without limitation any buildings, tanks, sumps, wells, waste management areas, landfills, ponds, process areas and storage areas.

Include without limitation detailed facility maps that clearly show current property lines, the owners of all adjacent property, surrounding land use (residential, commercial, agricultural, recreational, etc.), all tanks, buildings, process areas, utilities, paved areas, easements, rights-of-way, waste management areas, ponds, landfills, piles, underground tanks, wells, and other facility features.

## 3. Facility History

### 3.1. Ownership History

Describe the ownership history of the facility.

### 3.2. Operational History

Describe in detail how facility operations, processes and products have changed over time (historical aerial photographs could be useful for this purpose).

### 3.3. Regulatory History

Describe all permits (including waste discharge requirements) requested or received, any enforcement actions taken by DTSC or designated agencies and any closure activities that are planned or underway.

### 3.4. Waste Generation

Describe all wastes (solid or hazardous) that have been generated at the facility. Include without limitation approximate waste volumes generated and summaries of any waste analysis data. Show how the waste stream (volume and chemical composition) has changed over time.

### 3.5. Waste Management

Describe in detail all past and current solid and hazardous waste treatment, storage, and disposal activities at the facility, including without limitation, unit physical description (e.g., dimensions and pavement), unit operational designs (e.g., treatment and/or storage capacity, dimensions), operating procedures (e.g., hazardous waste determination, waste treatment and/or storage activities, controls to identify and minimize the releases). Include without limitation a description of facility operations with a comprehensive Block Process Flow Diagram and description of process flow. Show how these activities have changed over time and indicate the current status. Make a clear distinction between active waste management units and older out of service waste management units. Identify which waste management units are regulated under or California Health and Safety Code.

Include maps showing all known past solid waste or hazardous waste treatment, storage, or disposal areas regardless of whether they were active on November 19, 1980 and all known past or present underground tanks or piping.

### 3.6. Spill and Discharge History

Provide approximate dates or periods of past product and waste spills and releases (i.e., from fire suppression activities, radioactive materials, compressed gas cylinders, etc.), identify the materials spilled and describe any response actions conducted. Include a summary of any sampling data generated as a result of the spill. Include a map showing approximate locations of spill areas at the facility.

### 3.7. Chronology of Critical Events

Provide a chronological list (including a brief description) of major events, communications, agreements, notices of violation, spills, discharges, releases, fires, and explosions that occurred throughout the facility's history.

## 4. Environmental Setting

### 4.1. Location/Land Use

Discuss facility size, location, and adjacent land use. Include a rough demographic

profile of the human population who use or have access to the facility and adjacent lands. Provide approximate distance to nearest residential areas, schools, nursing homes, hospitals, parks, playgrounds, etc.

#### 4.2. Local Ecology

Describe any endangered or threatened species near the facility. Include a description of the ecological setting on and adjacent to the facility. Provide approximate distance to nearest environmentally sensitive areas such as marsh lands, wetlands, streams, oceans, forests, etc.

#### 4.3. Topography and Surface Drainage

Describe the regional and site-specific topography and surface drainage patterns that exist at the facility. Include a map that shows the topography and surface drainage depicting all waterways, wetlands, floodplains, water features, drainage patterns and surface water containment areas.

#### 4.4. Climate

Discuss mean annual temperatures, temperature extremes, 25-year 24-hour maximum rainfall, average annual rainfall, prevailing wind direction, etc.

#### 4.5. Surface Water Hydrology

Describe the facility's proximity (distance) and access to surface water bodies (e.g., coastal waters, lakes, rivers, creeks, drainage basins, floodplains, vernal pools, wetlands, etc.). Describe flows on-site that lead to holding basins, etc., and describe flows that leave the site.

#### 4.6. Geology

Describe the regional and site-specific geology including stratigraphy and structure. Include a geologic map and cross-sections to show the subsurface structure. Cross-sections should be at a natural scale (vertical equals horizontal) and of sufficient detail to accurately plot cut and fills, alluvium, and structural features. Cross-sections should be taken on a grid pattern oriented normal to major geologic structure and spaced close enough to determine geology and ground water flow on a unit-by-unit basis.

#### 4.7. Hydrogeology

Describe the regional and site specific hydrogeologic setting including any information concerning local aquifers, ground water levels, gradients, flow direction, hydraulic conductivity, and velocity. Include potentiometric surface contour maps. Describe the

beneficial uses of the ground water (e.g., drinking water supply, agricultural water supply, etc.). Plot ground water elevations on the geologic cross-sections and indicate ground water flow directions and likely contaminant pathways. Describe temporal variations (seasonal and historical).

#### 4.8. Ground Water Monitoring System

Describe the facility's ground water monitoring system including a table detailing the existing well construction. The table must, at a minimum and without limitation, identify the following construction details for each well:

- Well ID
- Completion Date
- Drilling Method
- Borehole Diameter (inches)
- Well Casing Diameter and Material Type
- Measuring Point and Ground Elevation (feet mean sea level)
- Borehole Depth [feet below ground surface (BGS)]
- Depth of Well (feet)
- Screened Interval (feet BGS) and Formation Screened
- Slot Size & Type (inches)
- Filter Pack Material
- Filter Pack Thickness and Spacing
- Type of Filter Pack Seal
- Thickness of Filter Pack Seal
- Sampling Pump System (dedicated or non-dedicated)
- Type of Pump and Depth in the Well
- Approximate Depth to Water (feet BGS)

If some of this information is not available, so indicate on the table with an "NA".

The monitoring well locations must be shown on the facility map (see Section A.2 of this Attachment).

#### 5. Existing Degree and Extent of Contamination

For each medium where the Permit or Order identifies a release (e.g., soil, ground water, surface water, air, etc.), describe the existing extent of contamination. This description must include without limitation all available monitoring data and qualitative information on the locations and levels of contamination at the facility (both onsite and offsite). Include without limitation a general assessment of the data quality, a map showing the location of all existing sampling points and potential source areas and contour maps showing any existing ground water plumes at the facility (if ground water release). Highlight potential ongoing release areas that would warrant use of interim corrective measures (see

Section 8, Interim Corrective Measures).

#### 5.1. Previous Investigations

List and briefly describe all previous investigations that have occurred at the facility, agencies (e.g., DTSC's Site Mitigation Branch, the Regional Water Quality Control Board, etc.) which required and/or oversaw the investigations, and agency contacts.

### 6. Potential Migration Pathways

#### 6.1. Physical Properties of Contaminants

Identify the applicable physical properties for each contaminant that may influence how the contaminant moves in the environment. These properties could include without limitation reactivity, melting point (degrees C), water solubility (mg/L), vapor pressure (mm Hg), Henry's law constant (atm-m<sup>3</sup>/mol), density (g/cc), dynamic viscosity (cp), kinematic viscosity (cs), octanol/water partition coefficient (log K<sub>ow</sub>), soil organic carbon/water partition coefficient (log K<sub>oc</sub>) and soil/water partition coefficients, etc. Include a table that summarizes the applicable physical properties for each contaminant.

#### 6.2. Conceptual Site Model of Contaminant Migration

Develop a conceptual site model of contaminant migration to have a preliminary understanding of the site's potential risks to human health and the environment, and to assist in developing the facility investigation. The conceptual site model presents information about site conditions and potential impacts to receptors and may be updated as new information is obtained. The information can be provided in a schematic presentation or pictorially. The conceptual site model should illustrate possible contaminant transport mechanisms and exposure pathways from various media that may be affected: air, soil, sediments, and water, including without limitation soil vapor, groundwater, and surface water.

The conceptual site model consists of a working hypothesis of how the contaminants (including without limitation dust, and debris) may move from the release source to the receptor population. The conceptual site model is also developed by looking at the applicable physical parameters for each contaminant and assessing how the contaminant may migrate given the existing site conditions (geologic features, depth to ground water, etc.).

Describe the phase (water, soil, gas, non-aqueous) and location where contaminants are likely to be found (e.g., if a ground water contaminant has a low water solubility and a high density, then the contaminant will likely sink and be found at the bottom of the aquifer, phase: non-aqueous). Include without limitation a discussion of potential transformation reactions that could impact the type and number of contaminants (i.e.,

what additional contaminants could be expected as a result of biotic and abiotic transformation reactions given the existing soil conditions).

A typical conceptual site model should include without limitation a discussion similar to the following: benzene, ethylbenzene, toluene, and xylenes are potential contaminants at the facility. Based on their high vapor pressures and relatively low water solubilities (see Henry's Law constant), the primary fate of these compounds in surface soils or surface water is expected to be volatilization to the atmosphere and indoor air. These mono-cyclic aromatic hydrocarbons may leach from soils into ground water. The log K<sub>oc</sub> (soil organic carbon/water partition coefficient) values for these compounds ranges from 1.9 to 4.0, indicating that sorption to organic matter in soils or sediments may occur only to a limited extent.

## 7. Potential Impacts of Existing Contamination

Describe the potential impacts on human health and the environment from any existing contamination and/or ongoing activities at the facility. This description must consider the possible impacts on sensitive ecosystems and endangered species as well as on local populations. Potential impacts from any releases to ground water, surface water, soil (including direct contact with contaminated surface soil) and air (including evaporation of volatile organic compounds from contaminated soil) must be discussed. If air could be a significant pathway, soil gas or vapor emissions and/or ambient air monitoring should be described.

### 7.1. Ground Water Releases

Identify all wells (municipal, domestic, agricultural, industrial, etc.) within a 1-mile radius of the facility. Include a summary of available water sampling data for any identified municipal, industrial, or domestic supply wells.

Develop a well inventory table that lists without limitation the following items for each identified well:

- Well Designation
- State ID
- Reported Owner
- Driller
- Date of Completion
- Original Use of Well
- Current Use of Well
- Drilling Method
- Borehole Diameter (inches)
- Casing Diameter (inches)
- Perforated Interval (feet) and Formation
- Gravel Pack Interval (feet)

- Total Well Depth (feet)
- Depth to Water (feet below ground surface)
- Date of Water Level Measurement

If some of this information is not available, so indicate on the table with an "NA".

Include a regional map showing the facility, ground water flow direction (if known) and the location of all identified wells within a 1-mile radius of the facility.

Identify and describe any potential ground water discharge to surface water bodies.

Identify and list all relevant and applicable water standards for the protection of human health and the environment (e.g., maximum contaminant levels, water quality standards, etc.).

## 7.2. Surface Water Releases

Discuss the facility's potential impact on surface water within a 2-mile radius of the facility. Describe the potential beneficial uses of the surface water (e.g., drinking water supply, recreational, agricultural, industrial, or environmentally sensitive). Identify all water supply intake points and contact areas within a 2-mile radius of the facility. Include a summary of the most recent water sampling data available for each of the identified water supply intake points. Include a description of the biota in surface water bodies on, adjacent to, or which can be potentially affected by the release. Also summarize any available sediment sampling data.

Include a regional map showing the facility, surface water flow direction, beneficial use areas, and the location of any identified water supply intake points or contact areas that are within a 2-mile radius of the facility.

## 7.3. Sensitive Ecosystems/Habitats

Discuss the facility's potential impact on sensitive ecosystems.

## 8. Interim Corrective Measures and Stabilization Assessment

Identify all corrective measures that were or are being undertaken at the facility to stabilize contaminant releases. Describe the objectives of the corrective measures including how the measure is mitigating a potential threat to human health and the environment. Summarize the design features of the corrective measure. Include a schedule for completing any ongoing or future work.

Identify and describe potential interim corrective measure alternatives that could be



implemented immediately to stabilize any ongoing releases and/or prevent further migration of contaminants and control source areas.

#### 9. Data Needs

Assess amount and quality of existing data concerning facility and determine what additional information must be collected to meet the objectives of the FI. This assessment must identify any additional information that may be needed to (1) support development of interim measures for early action and (2) adequately evaluate and compare corrective measures alternatives (e.g., field work, treatability studies, computer modeling, literature searches, vendor contacts, etc.). For example, if soil vapor extraction (SVE) is a likely option to address contamination at the facility, then the FI should collect applicable field data to assess SVE (e.g., soil gas analysis, depth to ground water, etc.). The FI Workplan must detail how this additional information will be collected.

#### 10. References

Provide a list of references cited in the Current Conditions Report.

### **B. Facility Investigation Workplan**

The FI Workplan shall define the procedures necessary to:

- Gather all necessary data to determine where interim measures are needed and to support the use of interim measures to address immediate threats to human health and/or the environment, to prevent or minimize the spread of contaminants, to control sources of contamination and to accelerate the corrective action process (required for all releases);
- Characterize the presence, magnitude, extent (horizontal and vertical), rate of movement and direction of any ground water contamination in and around the facility (only required for releases to ground water)
- Characterize the geology and hydrogeology in and around the facility (only required for releases to ground water and possibly for releases to soil);
- Characterize the presence, magnitude, extent (horizontal and vertical), rate of movement and direction of any soil contamination in and around the facility (only required for releases to soil);
- Characterize the presence, magnitude, extent (horizontal and vertical), rate of movement and direction of any soil gas contamination in and around the facility (may be required for releases to ground water and/or soil depending on the

circumstances);

- Characterize the presence, magnitude, extent (horizontal and vertical), rate of movement and direction of any surface water contamination (includes surface water sediments) at the facility (only required for releases to surface water);
- Characterize the presence, magnitude, extent (horizontal and vertical), rate of movement and direction of any air releases at the facility (only required for air releases);
- Characterize any potential sources of contamination (required for all releases);
- Characterize the potential pathways of contaminant migration (required for all releases);
- Identify any actual or potential receptors (required for all releases);
- Gather all data to support a risk and/or ecological assessment (if required);
- Gather all necessary data to support the Corrective Measures Study (required for all releases). This could include without limitation conducting treatability, pilot, laboratory and/or bench scale studies to assess the effectiveness of a treatment method.

The FI Workplan shall describe all aspects of the investigation, including without limitation project management, sampling, and analysis, well drilling and installation and quality assurance and quality control. If the scope of the investigation is such that more than one phase is necessary, the "Phase 1" FI Workplan must include without limitation a summary description of each phase. For example, the first phase of a FI could be used to gather information necessary to focus the second phase into key areas of the facility that need further investigation.

The required format for a FI Workplan is described below:

## 1. Introduction

Briefly introduce the FI Workplan. Discuss the Order or Permit requiring the FI and how the FI Workplan is organized.

## 2. Investigation Objectives

### 2.1. Project Objectives

Describe the overall objectives and critical elements of the FI. State the general

information needed from the site (e.g., soil chemistry, hydraulic conductivity of aquifer, stratigraphy, ground water flow direction, identification of potential receptors, etc.). The general information should be consistent with the objectives of the FI and the data needs identified in the Current Conditions Report.

## 2.2. Data Quality Objectives

Provide data quality objectives that identify what data are needed and the intended use of the data.

## 3. Project Management

Describe how the investigation will be managed, including without limitation the following information:

- Organization chart showing key personnel, levels of authority and lines of communication;
- Project Schedule; and
- Estimated Project Budget.

Identify the individuals or positions who are responsible for: project management, field activities, laboratory analysis, database management, overall quality assurance, data validation, etc. Include without limitation a description of qualifications for personnel performing or directing the FI, including contractor personnel.

## 4. Facility Background

Summarize existing contamination (e.g., contaminants, concentrations, etc.), local hydrogeologic setting and any other areas of concern at the facility. Include a map showing the general geographic location of the facility and a more detailed facility map showing the areas of contamination. Provide a reference to the Current Conditions Report and/or other applicable documents as a source of additional information.

## 5. Field Investigation

### 5.1. Task Description

Provide a qualitative description of each investigation task. Example tasks may include without limitation the following:

Task 1: Surface Soil Sampling

Task 2: Surface Geophysics, Subsurface Soil Boring, and Borehole Geophysics

- Task 3: Data Gathering to Support Interim Corrective Measures
- Task 4: Monitoring Well Installation
- Task 5: Aquifer Testing
- Task 6: Ground Water Sampling
- Task 7: Potential Receptor Identification
- Task 8: Treatability Studies

## 5.2. Rationale for Sampling

Describe where all samples will be collected (location and depth), types of media that will be sampled and the analytical parameters. Explain the rationale for each sampling point, the total number of sampling points, and any statistical approach used to select these points. The conceptual site model of contaminant migration developed in the Current Conditions Report should be considered when selecting sampling locations and depths. If some possible sampling points are excluded, explain why. Describe any field screening techniques that will be used to identify samples for laboratory analysis. Include the rationale for use of field screening techniques and criteria for sample selection.

### 5.2.1. Background Samples

Background samples should be analyzed for the complete set of parameters for each medium; treat sediments, surface soils and subsurface soils as separate media. Background samples are collected, numbered, packaged, and sealed in the same manner as other samples. For long term and/or especially large projects, it is recommended that 10% of samples collected be from background locations.

## 5.3. Sample Analysis

List and discuss all analyses proposed for the project. Include a table that summarizes the following information for each analysis to be performed:

- Analytical Parameters
- Analytical Method Reference Number (from USEPA SW 846)
- Sample Preparation and/or Extraction Method Reference Number (from USEPA SW 846)
- Detection and Practical Quantitation Limits (Data above the detection limit but below the practical quantitation limit must be reported with the estimated concentration.)

Discuss the rationale for selection of the analytical parameters. The rationale must relate to site history and the FI objectives. The achievable detection limits or quantitation limits stated in the selected methods must be adequate for valid comparisons of analytical results against any action levels or standards. For example, the objective may be to

collect ground water data for comparison with Maximum Contaminant Levels (MCLs) or Regional Screening Levels (RSLs). If this were the case, it would be important to ensure that any ground water test methods had detection limits below the MCLs or RSLs. Give an explanation if all samples from the same medium will not be analyzed for the same parameters.

Provide the name(s) of the laboratory(s) that will be doing the analytical work. Indicate any special certifications or ratings of the laboratory. Describe the steps that will be taken to select and pre-qualify analytical laboratories to be used including any previous audits and/or other criteria. If a definite laboratory has not yet been selected, list at least three (3) laboratories that are being considered for the analytical work.

#### 5.4. Sample Collection Procedures

Describe how sampling points will be selected in the field, and how these locations will be documented and marked for future reference. If a sampling grid will be used, describe the dimensions, and lay out planned for the grid.

Outline sequentially or step-by-step the procedure for collecting a sample for each medium and each different sampling technique. Include without limitation a description of sampling equipment (including materials of construction), field measurements, sample preservation, housekeeping/ cleanliness techniques and well purging procedures. The procedure described must ensure that a representative sample is collected, and that sample handling does not result in cross contamination or unnecessary loss of contaminants. Special care in sample handling for volatile organic samples must be addressed.

Describe how and when duplicates, blanks, laboratory quality control samples and background samples will be collected. If samples will be filtered, describe filtration equipment and procedures.

Respondent must include sufficient maps and tables to fully describe the sampling effort. This shall include, at a minimum and without limitation, a map showing all proposed sampling locations and tables that contain the following information:

#### Sample Collection Table:

Sampling Location/Interval  
Analytical Parameters (e.g., volatile organic compounds)  
Analytical Method Number  
Medium  
Preservation Method  
Holding Times (as specified in USEPA SW 846)  
Containers (quantity, size, type plus footnotes that discuss source and grade of

containers)

Sample Summary Table:

Sample Description/Area (include QC samples)

Analytical Parameters

Analytical Method Number

Preparation or Extraction Method Number

Medium

Number of Sample Sites

Number of Analyses

#### 5.4.1. Equipment Decontamination

Describe the decontamination procedure for all drilling, sampling equipment (including metal sleeves), and field-parameter testing equipment.

The following is a recommended generic procedure for decontamination of sampling equipment:

- Wash with non-phosphate detergent
- Tap water rinse
- 0.1 Mole nitric acid rinse (when cross contamination from metals is a concern)
- Deionized/distilled water rinse
- Pesticide grade solvent rinse (when semi volatiles and non-volatile organic contamination may be present)
- Deionized/distilled water rinse (twice)
- Organic free water rinse [High Performance Liquid Chromatography (HPLC) grade]

The above procedure is not appropriate for every field condition. Clearly document the decontamination procedures.

#### 5.4.2. Equipment Calibration and Maintenance

Logbooks or pre-formatted calibration worksheets should be maintained for major field instruments, to document servicing, maintenance, and instrument modification. The calibration, maintenance and operating procedures for all instruments, equipment and sampling tools must be based upon manufacturer's instructions. List all field equipment to be used, specify the maintenance/calibration frequency for each instrument and the calibration procedures (referenced in text and included in appendices).

#### 5.4.3. Sample Packaging and Shipment

Describe how samples will be packaged and shipped. All applicable Department of Transportation regulations must be followed.

#### 5.4.4. Sample Documentation

Discuss the use of all paperwork including field notebooks, record logs, photographs, sample paperwork, and Chain of Custody forms (include a blank copy in FI Workplan Appendices) and seals.

Describe how sample containers will be labeled and provide an example label if available. At a minimum and without limitation, each sample container label should include project ID, sample location, analytical parameters, date sampled, and any preservative added to the sample.

A bound field logbook must be maintained by the sampling team to provide a daily record of events. Field logbooks shall provide the means of recording all data regarding sample collection. All documentation in field books must be made in permanent ink. If an error is made, corrections must be made by crossing a line through the error and entering the correct information. Changes must be initialed, no entries shall be obliterated or rendered unreadable. Entries in the logbook must include, at a minimum and without limitation, the following for each day's sampling:

- Date
- Starting Time
- Meteorological Conditions
- Field Personnel Present
- Level of Personal Protection
- Site Identification
- Field Observations/Parameters
- Sample Identification Numbers
- Location and Description of Sampling Points
- Number of Samples Collected
- Time of Sample Collection
- Signature of Person Making the Entry
- Observation of Sample Characteristics
- Photo Log
- Deviations

#### 5.4.5. Disposal of Contaminated Materials

Describe the storage and disposal methods for all contaminated cuttings, well development and purge water, disposable equipment, decontamination water, and any other contaminated materials. The waste material must be disposed of in a manner consistent with local, state, and federal regulations.

#### 5.4.6. Standard Operating Procedures

If Standard Operating Procedures (SOPs) are referenced, the relevant procedure must be summarized in the FI Workplan. The SOP must be specific to the type of tasks proposed and be clearly referenced in the FI Workplan. The SOP must also be directly applicable, as written, to the FI Workplan; otherwise, modifications to the SOP must be discussed. Include the full SOP description in the FI Workplan appendix.

#### 5.5. Well Construction and Aquifer Testing

When new monitoring wells (or piezometers) are proposed, describe the drilling method, well design and construction details (e.g., depth of well, screen length, slot size, filter pack material, etc.) and well development procedures. Describe the rationale for proposed well locations and selection of all well design and construction criteria (i.e., provide rationale for selection of slot size and screen length).

When aquifer testing is proposed, describe the testing procedures, flow rates, which wells are involved, test periods, how water levels will be measured, and any other pertinent information.

#### 6. Quality Assurance and Quality Control

Quality control checks of field and laboratory sampling and analysis serve two purposes: to document the data quality, and to identify areas of weakness within the measurement process which need correction.

Include a summary table of data quality assurance objectives that, at a minimum and without limitation, lists:

- Analysis Group (e.g., volatile organic compounds)
- Medium
- Practical Quantitation Limits (PQL) and Method Detection Limits (MDL)
- Spike Recovery Control Limits (%R)
- Duplicate Control Limits +/- Relative Percent Difference (RPD)
- QA Sample Frequency
- Data Validation

A reference may note the specific pages from USEPA's SW 846 Guidance Document that list the test method objectives for precision and accuracy. If the field and laboratory numerical data quality objectives for precision are the same and presented on a single table, then a statement should be made to this effect and added as a footnote to the table (e.g., "These limits apply to both field and laboratory duplicates"). Include a copy of the analytical laboratory quality assurance/quality control plan in the appendices of the FI



Workplan and provide the equations for calculating precision and accuracy.

## 6.1. Field Quality Control Samples

### 6.1.1. Field Duplicates

Duplicates are additional samples that must be collected to check for sampling and analytical precision. Duplicate samples for all parameters and media must be collected at a frequency of at least one sample per week or 10 percent of all field samples, whichever is greater.

Duplicates should be collected from points which are known or suspected to be contaminated. For large projects, duplicates should be spread out over the entire site and collected at regular intervals.

Duplicates must be collected, numbered, packaged, and sealed in the same manner as other samples; duplicate samples are assigned separate sample numbers and submitted blind to the laboratory.

### 6.1.2. Blank Samples

Blanks are samples that must be collected to check for possible cross-contamination during sample collection and shipment and in the laboratory. Blank samples should be analyzed for all parameters being evaluated. At least one blank sample per day must be done for all water and air sampling. Additionally, field blanks are required for soil sampling if non-dedicated field equipment is being used for sample collection.

Blank samples must be prepared using analytically-certified, organic-free (HPLC-grade) water for organic parameters and metal-free (deionized-distilled) water for inorganic parameters. Blanks must be collected, numbered, packaged, and sealed in the same manner as other samples; blank samples are assigned separate sample numbers and submitted blind to the laboratory. The following types of blank samples may be required:

**Equipment Blank:** An equipment blank must be collected when sampling equipment (e.g., bladder pump) or a sample collection vessel (e.g., a bailer or beaker) is decontaminated and reused in the field. Use the appropriate "blank" water to rinse the sampling equipment after the equipment has been decontaminated and then collect this water in the proper sample containers.

**Field Bottle Blank:** This type of blank must be collected when sampling equipment decontamination is not necessary. The field bottle blank is obtained by pouring the appropriate "blank" water into a container at a sampling point.

## 6.2. Laboratory Quality Control Samples

Laboratories routinely perform medium spike and laboratory duplicate analysis on field samples as a quality control check. A minimum of one field sample per week or 1 per 20 samples (including field blanks and duplicates), whichever is greater, must be designated as the "Lab QC Sample" for the medium and laboratory duplicate analysis.

Laboratory quality control samples should be selected from sampling points which are suspected to be moderately contaminated. Label the bottles and all copies of the paperwork as "Lab QC Sample"; the laboratory must know that this sample is for their QC analyses. The first laboratory QC sample of the sampling effort should be part of the first- or second-day's shipment. Subsequent laboratory QC samples should be spread out over the entire sampling effort.

For water media, 2-3 times the normal sample volume must be collected for the laboratory QC sample. Additional volume is usually not necessary for soil samples.

## 6.3. Performance System Audits by Respondent

This section should describe any internal performance and/or system audit which Respondent will conduct to monitor the capability and performance of the project. The extent of the audit program should reflect the data quality needs and intended data uses. Audits are used to quickly identify and correct problems thus preventing and/or reducing costly errors. For example, a performance audit could include monitoring field activities to ensure consistency with the workplan. If the audit strategy has already been addressed in a QA program plan or standard operating procedure, cite the appropriate section which contains the information.

## 7. Data Management

Describe how investigation data and results will be evaluated, documented, and managed, including development of an analytical database. State the criteria that will be used by the project team to review and determine the quality of data. To document any quality assurance anomalies, the FI QC Summary Forms must be completed by the analytical laboratory and submitted as part of the FI Report. In addition, provide examples of any other forms or checklists to be used.

Identify and discuss personnel and data management responsibilities, all field, laboratory, and other data to be recorded and maintained, and any statistical methods that may be used to manipulate the data.

## 8. References

Provide a list of references cited in the FI Workplan.

### **C. Facility Investigation Report**

A FI Report must be prepared that describes the entire site investigation and presents the basic results. The FI Report must clearly present an evaluation of investigation results (e.g., all potential contaminant source areas must be identified, potential migration pathways must be described, and affected media shown, etc.).

The FI Report must also include without limitation an evaluation of the completeness of the investigation and indicate if additional work is needed. This work could include additional investigation activities and/or interim corrective measures to stabilize contaminant release areas and limit contaminant migration. If additional work is needed, Respondent must submit a Phase 2 FI Workplan and/or Interim Corrective Measures Workplan must be submitted to DTSC along with the FI Report.

At a minimum and without limitation, the FI Report must include:

- A summary of investigation results (include tables that summarize analytical results).
- A complete description of the investigation, including all data necessary to understand the project in its entirety including all investigative methods and procedures.
- A discussion of key decision points encountered and resolved during the course of the investigation.
- Graphical displays such as isopleths, potentiometric surface maps, cross-sections, plume contour maps (showing concentration levels, isoconcentration contours), facility maps (showing sample locations, etc.) and regional maps (showing receptor areas, water supply wells, etc.) that describe report results. Highlight important facts such as geologic features that may affect contaminant transport.
- Tables that list all chemistry data for each medium investigated.
- An analysis of current and existing ground water data to illustrate temporal changes for both water chemistry and piezometric data (use graphics whenever possible).
- A description of potential or known impacts on human and environmental receptors from releases at the facility. Depending on the site-specific circumstances, this analysis could be based on the results from contaminant

dispersion models if field validation is performed.

- A discussion of any upset conditions that occurred during any sampling events or laboratory analysis that may influence the results. The discussion must include without limitation any problems with the chain of custody procedures, sample holding times, sample preservation, handling and transport procedures, field equipment calibration and handling, field blank results that show potential sample contamination and any field duplicate results that indicate a potential problem. Summary tables must be provided that show the upset condition and the samples that could be impacted. The FI QC Summary Forms must be completed by the analytical laboratory and submitted as part of the FI Report.
- Assessment of the entire QA/QC program effectiveness.
- Data validation results should be documented in the FI Report.

In addition to the FI Report, DTSC may require Respondent to submit the analytical results (database) in an electronic format (DTSC will specify the format). All raw laboratory and field data (e.g., analytical reports) must be kept at the facility and be made available or sent to the DTSC upon request.

***In the event that DTSC determines that further action is needed, the following additional activities may be requested. Additional activities will be included as a new cost estimate to this Agreement.***

## **ATTACHMENT 5**

### **SCOPE OF WORK FOR A CORRECTIVE MEASURES STUDY**

#### **PURPOSE**

The purpose of the Corrective Measures Study (CMS) is to identify and evaluate potential remedial alternatives to address contaminant releases from a facility.

#### **SCOPE**

A Corrective Measures Study Workplan and a Corrective Measures Study Report are, unless otherwise specified by the Department of Toxic Substances Control (DTSC), required elements of the CMS. The Scope of Work (SOW) for the Corrective Measures Study Workplan and Report describe what should be included in each document. The SOWs are intended to be flexible documents capable of addressing both simple and complex site situations. If Respondent can justify, to the satisfaction of DTSC, that sections of a plan and/or report are not needed in the given site-specific situation, then DTSC may waive that requirement.

The scope and substance of the CMS should be focused to fit the complexity of the site-specific situation. It is anticipated that Respondent of sites with complex environmental problems may need to evaluate a number of technologies and corrective measure alternatives. For other facilities, however, it may be appropriate to evaluate a single corrective measure alternative.

DTSC may require Respondent to conduct additional studies beyond what is discussed in the SOWs in order to support the CMS. Respondent will furnish all personnel, materials, and services necessary to conduct the additional tasks. The SOW for the Corrective Measures Study Workplan and Report are specified below:

#### **A. Corrective Measures Study Workplan**

The purpose of the Corrective Measures Study (CMS) Workplan is to specify how the CMS Report will be prepared. The CMS Workplan shall, at a minimum and without limitation, include the following elements:

1. A brief project summary;

2. A site-specific description of the overall purpose of the CMS;
3. A description of the proposed media cleanup standards and points of compliance that will be used in the corrective measures study report. Include the justification and supporting rationale for the proposed media cleanup standards and points of compliance. The proposed media cleanup standards must be based on available promulgated federal and state cleanup standards, risk-based analysis, data, and information gathered during the corrective action process (e.g., from Facility Investigation, etc.), and/or information from other applicable guidance documents. DTSC may require that Respondent conduct a risk assessment to gather information for establishing cleanup standards. Based on the CMS Report and other information including public comments, DTSC will establish final cleanup standards and points of compliance as part of the remedy selection process.
4. A description of the specific corrective measure technologies and/or corrective measure alternatives which will be studied;
5. A description of the general approach to investigating and evaluating potential corrective measures;
6. A detailed description of any proposed treatability, pilot, laboratory and/or bench scale studies. Proposed studies must be further detailed in either the CMS Workplan or in separate workplans. Submittal times for separate workplans must be included in the CMS Workplan project schedule;
7. A proposed outline for the CMS Report including a description of how information will be presented;
8. A description of overall project management including overall approach, levels of authority (include organization chart), lines of communication, budget, and personnel. Include a description of qualifications for personnel directing or performing the work; and
9. A project schedule that specifies all significant steps in the process and when key documents (e.g., CMS Report) are to be submitted to DTSC.

## **B. Corrective Measures Study Report**

The CMS Report shall, at a minimum and without limitation, include the following elements:

### **1. Introduction/Purpose**

Describe the purpose and intent of the document.

## 2. Description of Current Conditions

Respondent shall include a brief discussion of any new information that has been developed since the Facility Investigation Report was finalized. This discussion should concentrate on those issues which could significantly affect the evaluation and selection of the corrective measure alternative(s).

## 3. Proposed Media Cleanup Standards

Respondent shall describe and justify the proposed media cleanup standards and points of compliance.

## 4. Identification and Screening of Corrective Measure Technologies

### a. Identification

List and briefly describe potentially applicable technologies for each affected media that may be used to achieve the media cleanup standards. Respondent should consider including a table that summarizes the available technologies.

Respondent should consider innovative treatment technologies, especially in situations where there are a limited number of applicable corrective measure technologies. Innovative technologies are defined as those technologies for source control other than incineration, solidification/stabilization and pumping with conventional treatment for contaminated ground water. Innovative treatment technologies may require extra initial effort to gather information, analyze options and to adapt the technology to site specific situations. However, in the long run, innovative treatment technologies could be more cost effective. Treatability studies and on-site pilot scale studies may be necessary for evaluating innovative treatment technologies.

### b. Screening

Technologies must be screened to eliminate those that may prove unfeasible to implement given the existing set of waste and site-specific conditions. The screening is accomplished by evaluating technology limitations (e.g., for volume, area, contaminant concentrations, interferences, etc.) and using contaminant and site characterization information from the Facility Investigation to screen out technologies that cannot be fully implemented at the facility. The screening process must focus on eliminating those technologies which have severe limitations for a given set of waste and site-specific conditions (e.g., depth to ground water and aquitards).

As with all decisions during the CMS, the screening of technologies must be fully documented. This is especially true if the screening step indicates that only one

corrective action technology should proceed to the next step and be evaluated in detail. List the corrective action technologies selected for further evaluation. Also document the reasons for excluding any corrective action technologies. Respondents should consider including a table that summarizes the findings.

## **5. Corrective Measure Alternative Development**

Assemble the technologies that pass the screening step into specific alternatives that have potential to meet the corrective action objectives. Options for addressing less complex sites could be relatively straightforward and may only require evaluation of a single or limited number of alternatives.

Each alternative may consist of an individual technology or a combination of technologies used in sequence (e.g., treatment train). Depending on the site-specific situation, different alternatives may be considered for separate areas of the facility. List and briefly describe each corrective measure alternative.

## **6. Evaluation of Corrective Measure Alternatives**

The four corrective action standards and five remedy selection decision factors described below shall be used to evaluate the corrective measure alternatives. All alternatives must meet the corrective action standards before the remedy selection decision factors are used for further evaluation.

The corrective action standards are as follows:

- Be protective of human health and the environment;
- Attain media cleanup standards;
- Control the source(s) of releases in order to reduce or eliminate, to the extent practicable, further releases of hazardous wastes (including hazardous constituents) that may pose a threat to human health and the environment; and
- Comply with any applicable federal, state, and local standards for management of wastes.

The remedy selection decision factors are as follows:

- Short- and Long-Term Effectiveness;
- Reduction of Toxicity, Mobility and/or Volume;
- Long-Term Reliability;



- Implementability; and
- Cost.

The corrective action standards and decision factors are described in further detail below.

a. Be Protective of Human Health and the Environment

Describe in detail how each corrective measure alternative is protective of human health and the environment.

This standard for protection of human health and the environment is a general mandate of the statute. The standard requires that remedies include any measures that are needed to be protective. These measures may or may not be directly related to media cleanup, source control, or management of wastes. An example would be a requirement to provide alternative drinking water supplies in order to prevent exposures to a contaminated drinking water supply.

b. Attain Media Cleanup Standards

Describe in detail each corrective measure alternatives ability to meet the proposed media cleanup standards.

c. Control the Sources of Releases

Describe in detail each corrective measure alternatives ability to control the sources of releases.

A critical objective of any remedy must be to stop further environmental degradation by controlling or eliminating further releases that may pose a threat to human health and the environment. Unless source control measures are taken, efforts to cleanup releases may be ineffective or, at best, will essentially involve a perpetual cleanup. Therefore, an effective source control program is essential to ensure the long-term effectiveness and protectiveness of the corrective action effort.

The source control standard is not intended to mandate a specific remedy or class of remedies. Instead, Respondent is encouraged to examine a wide range of options. This standard should not be interpreted to preclude the equal consideration of using other protective remedies to control the source, such as partial waste removal, capping, slurry walls, in-situ treatment/stabilization, and consolidation.

d. Comply with Any Applicable Standards for Management of Wastes

Discuss how any specific waste management activities will be conducted in compliance with all applicable state or federal regulations (e.g., CAMU closure requirements, land disposal restrictions).

e. Short- and Long-Term Effectiveness

Each corrective measure alternative must be evaluated with regard to its effectiveness in protecting human health and the environment and meeting the proposed media cleanup standards. Both short- and long-term components of effectiveness must be evaluated; short-term referring to the construction and implementation period, and long-term referring to the period after the remedial action is complete. Estimate approximately how much time it will take to implement each corrective measure alternative, the length of time before initial beneficial results are obtained, and the length of time required to achieve the proposed media cleanup standards.

The evaluation of short-term effectiveness must include possible threats to the safety of nearby communities, workers, and environmentally sensitive areas (e.g., oceans, wetlands) during construction of the corrective measure alternative. Factors to consider are fire, explosion, exposure to hazardous substances and potential threats associated with treatment, excavation, transportation and re-disposal or containment of waste material. Laboratory and/or field studies are extremely useful in estimating the effectiveness of corrective measures and should be used whenever possible.

The evaluation of long-term effectiveness must include possible threats to the safety of nearby communities, workers, and environmentally sensitive areas (e.g., oceans, wetlands) during operation of the corrective measure alternative.

f. Reduction of Toxicity, Mobility and/or Volume

Each corrective measure alternative must be evaluated for its ability to reduce the toxicity, mobility, and/or volume of the contaminated media. Reduction in toxicity, mobility, and/or volume refers to changes in one or more characteristics of the contaminated media by the use of corrective measures that decrease the inherent threats associated with the media.

Estimate how much the corrective measure alternative will reduce the waste toxicity, volume and/or mobility (compare initial site conditions to post-corrective measure conditions). In general, DTSC strongly prefers corrective measures that have a high degree of permanence and reduce the contaminant toxicity, mobility, and volume through treatment.

g. Long-Term Reliability

Each corrective measure alternative must be evaluated with regards to its long-term reliability. This evaluation includes consideration of operation and maintenance requirements.

Demonstrated and expected reliability is a way of assessing the risk and effect of failure. Discuss whether the technology or combination of technologies have been used effectively together under analogous site conditions, whether failure of any one technology in the alternative has an impact on receptors or contaminant migration, and whether the alternative would have the flexibility to deal with uncontrollable changes at the site (e.g., heavy rainstorms, earthquakes, etc.).

Operation and maintenance requirements include the frequency and complexity of necessary operation and maintenance. Technologies requiring frequent or complex operation and maintenance activities should be regarded as less reliable than technologies requiring little or straightforward operation and maintenance. The availability of labor and materials to meet these requirements must also be considered.

Most corrective measure technologies, with the exception of destruction, deteriorate with time. Often, deterioration can be slowed through proper system operation and maintenance, but the technology eventually may require replacement. Each corrective measure alternative shall be evaluated in terms of the projected useful life of the overall alternative and of its component technologies. Useful life is defined as the length of time the necessary or required level of effectiveness can be maintained.

h. Implementability of Corrective Measure Alternatives

The implementability criterion addresses the technical and administrative feasibility of implementing a corrective measure alternative and the availability of various services and materials needed during implementation. Each corrective measure alternative must be evaluated using the following criteria:

**Construction and Operation:** Corrective measure alternatives must be feasible to implement given the existing set of waste and site-specific conditions. This evaluation was initially done for specific technologies during the screening process and is addressed again in this detailed analysis of the alternative as a whole. It is not intended that the screening process be repeated here, but instead to highlight key differences and/or changes from the screening analysis that may result from combining technologies.

**Administrative Feasibility:** Discuss the administrative activities needed to implement the corrective measure alternative (e.g., permits, public acceptance, rights of way, off-site approvals, etc.).

Availability of Services and Materials: Discuss the availability of adequate off-site treatment, storage capacity, disposal services, needed technical services and materials, and the availability of prospective technologies for each corrective measure alternative.

i. Cost

Develop a preliminary cost estimate for each corrective measure alternative (and for each phase or segment of the alternative). The cost estimate shall include both capital and operation and maintenance costs. Include a description of how the costs were estimated and what assumptions were used.

- The preliminary capital cost estimate must consider all key costs including, at a minimum and without limitation, costs for engineering, mobilization, demobilization, site preparation, construction, materials, labor, equipment purchase and rental, sampling, analysis, waste disposal, permitting and health and safety measures.
- The preliminary operation and maintenance cost estimate must consider all key costs including, at a minimum and without limitation, costs for labor, training, sampling, analysis, maintenance materials, utilities, waste disposal, waste treatment, permitting and health and safety measures.
- Calculate the net present value of preliminary capital and operation and maintenance costs for each corrective measure alternative.

7. Respondent's Recommended Corrective Measure Alternative

Respondent may recommend a preferred corrective measure alternative for consideration by DTSC. Such a recommendation should include a description and supporting rationale for the preferred alternative that is consistent with the corrective action standards and remedy selection decision factors discussed above.

Based on the CMS Report and other information including public comments, DTSC will establish final cleanup standards, points of compliance and will select a final remedy for the facility.

## ATTACHMENT 6

### SCOPE OF WORK FOR CORRECTIVE MEASURES IMPLEMENTATION

#### PURPOSE

The purpose of the Corrective Measures Implementation (CMI) program is to design, construct, operate, maintain, and monitor the performance of the corrective measure or measures selected by DTSC. Corrective measures are intended to protect human health and/or the environment from hazardous waste releases from the Facility. Respondent will furnish all personnel, materials, and services necessary to implement the corrective measures program.

#### SCOPE

The documents required for Corrective Measures Implementation are, unless the DTSC specifies otherwise, a Corrective Measures Implementation Workplan, Operation and Maintenance Plan, Draft Plans and Specifications, Final Plans and Specifications, Construction Workplan, Construction Completion Report and Corrective Measure Completion Report. The scope of work (SOW) for each document is specified below. The SOWs are intended to be flexible documents capable of addressing both simple and complex site situations. If Respondent can justify, to the satisfaction of DTSC, that a plan and/or report or portions thereof are not needed in the given site-specific situation, then DTSC may waive that requirement.

The scope and substance of the CMI should be focused to fit the complexity of the site-specific situation. Not all of the documents included in the CMI SOW may be needed for every facility.

DTSC may require Respondent to conduct additional studies beyond what is discussed in the SOWs in order to support the CMI program. Respondent will furnish all personnel, materials, and services necessary to conduct the additional tasks.

#### **A. Corrective Measures Implementation Workplan**

Respondent shall prepare a CMI Workplan that clearly describes the size, shape, form, and content of the proposed corrective measure, the key components or elements that are needed, describes the designer's vision of the corrective measure in the form of conceptual drawings and schematics, and includes without limitation procedures and schedules for implementing the corrective measure(s).

Note that more than one CMI Workplan may be needed in situations where there is a complex site with multiple technologies being employed at different locations. The CMI Workplan must be approved by DTSC prior to implementation. The CMI Workplan must,

at a minimum and without limitation, include the following elements:

1. Introduction/Purpose

Describe the purpose of the document and provide a summary description of the project.

2. Media Cleanup Standards

Discuss the media cleanup standards for the facility.

3. Conceptual Site Model of Contaminant Migration

Respondent must present a conceptual site model of the contaminant migration to develop a preliminary understanding of the site's potential risks to human health and the environment, and to assist in developing the corrective measures study. The conceptual site model presents information about site conditions and potential impacts to receptors and may be updated as new information is obtained. The information can be provided in a schematic presentation or pictorially. The conceptual site model should illustrate possible contaminant transport mechanisms and exposure pathways from various media that may be affected: air, soil, sediments, and water, including soil vapor, groundwater, and surface water.

The conceptual site model also consists of a working hypothesis of how the contaminants (including without limitation dust, and debris) may move from the release source to the receptor population. The conceptual site model is developed by looking at the applicable physical parameters (e.g., water solubility, density, Henry's Law Constant, etc.) for each contaminant and assessing how the contaminant may migrate given the existing site conditions (geologic features, depth to ground water, etc.). Describe the phase (water, soil, gas, non-aqueous) and location where contaminants are likely to be found. This analysis may have already been done as part of earlier work (e.g., Current Conditions Report). If this is the case, then provide a summary of the conceptual site model with a reference to the earlier document. If not, then field validation of the conceptual site model is required.

4. Description of Corrective Measures

Considering the conceptual site model of contaminant migration, qualitatively describe what the corrective measure is supposed to do and how it will function at the Facility. Discuss the constructability of the corrective measure and its ability to meet the corrective measure objectives.

5. Data Sufficiency

Review existing data needed to support the design effort and establish whether or not

there are sufficient accurate data available for this purpose. Respondent must summarize the assessment findings and specify any additional data needed to complete the corrective measure design. DTSC may require or Respondent may propose that sampling and analysis plans and/or treatability study workplans be developed to obtain the additional data. Submittal times for any new sampling and analysis plans and/or treatability study workplans must be included in the project schedule.

#### 6. Project Management

Describe the management approach including levels of authority and responsibility (include organization chart), lines of communication and the qualifications of key personnel who will direct the corrective measure design and implementation effort (including contractor personnel).

#### 7. Project Schedule

The project schedule must specify all significant steps in the process and when all CMI deliverables (e.g., Operation and Maintenance Plan, Corrective Measure Construction Workplan, etc.) are to be submitted to DTSC.

#### 8. Design Criteria

Specify performance requirements for the overall corrective measure and for each major component. Respondent must select equipment that meets the performance requirements.

#### 9. Design Basis

Discuss the process and methods for designing all major components of the corrective measure. Discuss the significant assumptions made and possible sources of error. Provide justification for the assumptions;

#### 10. Conceptual Process/Schematic Diagrams.

#### 11. Site plan showing preliminary plant layout and/or treatment area.

#### 12. Tables listing number and type of major components with approximate dimensions.

#### 13. Tables giving preliminary mass balances.

#### 14. Site safety and security provisions (e.g., fences, fire control, etc.).

#### 15. Waste Management Practices

Describe the wastes generated by the construction of the corrective measure and how they will be managed. Also discuss drainage and indicate how rainwater runoff will be managed.

#### 16. Required Permits

List and describe the permits needed to construct and operate the corrective measure. Indicate on the project schedule when the permit applications will be submitted to the applicable agencies and an estimate of the permit issuance date.

#### 17. Long-Lead Procurement Considerations

Respondent shall prepare a list of any elements or components of the corrective measure that will require custom fabrication or for some other reason must be considered as long-lead procurement items. The list must include without limitation the reason why the items are considered long-lead items, the length of time necessary for procurement, and recognized sources of such procurement;

#### 18. Appendices including without limitation:

- a. Design Data - Tabulations of significant data and assumptions used in the design effort;
- b. Equations - List and describe the source of major equations used in the design process;
- c. Sample Calculations - Present and explain one example calculation for significant or unique design calculations; and
- d. Laboratory or Field Test Results.

### **B. Operation and Maintenance Plan**

Respondent shall prepare an Operation and Maintenance (O&M) Plan that includes without limitation a strategy and procedures for performing operations, long term maintenance, and monitoring of the corrective measure. A draft O&M Plan shall be submitted to DTSC simultaneously with the draft Plans and Specifications. A final O&M Plan shall be submitted to DTSC simultaneously with the final Plans and Specifications. The O&M Plan shall, at a minimum and without limitation, include the following elements:

#### 1. Introduction/Purpose

Describe the purpose of the document and provide a summary description of the project.



## 2. Project Management

Describe the management approach including levels of authority and responsibility (include organization chart), lines of communication and the qualifications of key personnel who will operate and maintain the corrective measures (including contractor personnel);

## 3. System Description

Describe the corrective measure and identify significant equipment.

## 4. Personnel Training

Describe the training process for O&M personnel. Respondent shall prepare and include without limitation in the technical specifications governing treatment systems, contractor requirements for providing: appropriate service visits by experienced personnel to supervise the installation, adjustment, start up and operation of the treatment systems, and training covering appropriate operational procedures once the start-up has been successfully accomplished.

## 5. Start-Up Procedures

Describe system start-up procedures and operational testing.

## 6. Operation and Maintenance Procedures

Describe normal operation and maintenance procedures including:

- a. Description of tasks for operation;
- b. Description of tasks for maintenance;
- c. Description of prescribed treatment or operation conditions; and
- d. Schedule showing frequency of each O&M task.

## 7. Replacement schedule for equipment and installed components.

## 8. Waste Management Practices

Describe the wastes generated by operation of the corrective measure and how they will be managed. Also discuss drainage and indicate how rainwater runoff will be managed.

## 9. Sampling and Monitoring

Sampling and monitoring activities may be needed for effective operation and

maintenance of the corrective measure. If sampling activities are necessary, the O&M Plan must include a complete sampling and analysis section which specifies at a minimum and without limitation the following information:

- a. Description and purpose of monitoring tasks;
- b. Data quality objectives;
- c. Analytical test methods, method detection limits, and practical quantitation limits;
- d. Name of analytical laboratory;
- e. Laboratory quality control (include laboratory QA/QC procedures in appendices)
- f. Sample collection procedures and equipment;
- g. Field quality control procedures:
  - duplicates (10% of all field samples)
  - blanks (field, equipment, etc.)
  - equipment calibration and maintenance
  - equipment decontamination
  - sample containers
  - sample preservation
  - sample holding times (must be specified)
  - sample packaging and shipment
  - sample documentation (field notebooks, sample labeling, etc.);
  - chain of custody;
- h. Criteria for data acceptance and rejection; and
- i. Schedule of monitoring frequency.

Respondent shall follow all DTSC and USEPA guidance for sampling and analysis. DTSC may request that the sampling and analysis section be a separate document.

#### 10. Corrective Measure Completion Criteria

Describe the process and criteria (e.g., ground water cleanup goal met at all compliance points for one year) for determining when corrective measures may cease. Also describe the process and criteria for determining when maintenance and monitoring may cease. Criteria for corrective measures such as a landfill cap must be carefully crafted to account for the fact that a landfill cap will never actually "cease" but will need to be maintained and monitored for a long period of time. Satisfaction of the completion criteria will trigger preparation and submittal of the Corrective Measure Completion Report.

#### 11. O&M Contingency Procedures:

- a. Procedures to address system breakdowns and operational problems including a list of redundant and emergency back-up equipment and procedures;
- b. Should the corrective measure suffer complete failure, specify alternate procedures to prevent release or threatened releases of hazardous substances,

pollutants or contaminants which may endanger public health and/or the environment or exceed cleanup standards;

- c. The O&M Plan must specify that, in the event of a major breakdown and/or complete failure of the corrective measure (includes emergency situations), Respondent will orally notify DTSC within 24 hours of the event and will notify DTSC in writing within 72 hours of the event. The written notification must, at a minimum, specify what happened, what response action is being taken and/or is planned, and any potential impacts on human health and/or the environment; and
- d. Procedures to be implemented in the event that the corrective measure is experiencing major operational problems, is not performing to design specifications and/or will not achieve the cleanup goals in the expected timeframe. For example, in certain circumstances both a primary and secondary corrective measure may be selected for the Facility. If the primary corrective measure were to fail, then the secondary would be implemented. This section would thus specify that if the primary corrective measure failed, then design plans would be developed for the secondary measure.

## 12. Data Management and Documentation Requirements

Describe how analytical data and results will be evaluated, documented, and managed, including development of an analytical database. State the criteria that will be used by the project team to review and determine the quality of data.

The O&M Plan shall specify that Respondent collect and maintain the following information:

- a. Progress Report Information
  - Work Accomplishments (e.g., performance levels achieved, hours of treatment operation, treated and/or excavated volumes, concentration of contaminants in treated and/or excavated volumes, nature and volume of wastes generated, etc.).
  - Record of significant activities (e.g., sampling events, inspections, problems encountered, action taken to rectify problems, etc.).
- b. Monitoring and laboratory data;
- c. Records of operating costs; and
- d. Personnel, maintenance, and inspection records.

These data and information should be used to prepare Progress Reports and the Corrective Measure Completion Report.

### **C. Draft Plans and Specifications**

Respondent shall prepare draft Plans and Specifications that are based on the CMI Workplan but include additional design detail. A draft O&M Plan and Construction Workplan shall be submitted to DTSC simultaneously with the draft Plans and Specifications. The draft design package must include without limitation drawings and specifications needed to construct the corrective measure. Depending on the nature of the corrective measure, many different types of drawings and specifications may be needed. Some of the elements that may be required are:

- General Site Plans
- Process Flow Diagrams
- Mechanical Drawings
- Electrical Drawings
- Structural Drawings
- Piping and Instrumentation Diagrams
- Excavation and Earthwork Drawings
- Equipment Lists
- Site Preparation and Field Work Standards
- Preliminary Specifications for Equipment and Material

General correlation between drawings and technical specifications is a basic requirement of any set of working construction plans and specifications. Before submitting the project specifications to DTSC, Respondent shall:

- a. Proofread the specifications for accuracy and consistency with the CMI Workplan; and
- b. Coordinate and cross-check the specifications and drawings.

### **D. Final Plans and Specifications**

Respondent shall prepare final Plans and Specifications that are sufficient to be included in a contract document and be advertised for bid. A final O&M Plan and Construction Workplan shall be submitted to DTSC simultaneously with the final Plans and Specifications. The final design package must consist of the detailed drawings and specifications needed to construct the corrective measure. Depending on the nature of the corrective measure, many different types of drawings and specifications may be needed. Some of the elements that may be required are:

- General Site Plans

- Process Flow Diagrams
- Mechanical Drawings
- Electrical Drawings
- Piping and Instrumentation Diagrams
- Structural Drawings
- Excavation and Earthwork Drawings
- Site Preparation and Field Work Standards
- Construction Drawings
- Installation Drawings
- Equipment Lists
- Detailed Specifications for Equipment and Material

General correlation between drawings and technical specifications is a basic requirement of any set of working construction plans and specifications. Before submitting the final project specifications to DTSC, Respondent shall:

- a. Proofread the specifications for accuracy and consistency with the preliminary design; and
- b. Coordinate and cross-check the specifications and drawings.

#### **E. Construction Workplan**

Respondent shall prepare a Construction Workplan which documents the overall management strategy, construction quality assurance procedures and schedule for constructing the corrective measure. A draft Construction Workplan shall be submitted to DTSC simultaneously with the draft Plans and Specifications and draft O&M Plan. A final Construction Workplan shall be submitted to DTSC simultaneously with the final Plans and Specifications and final O&M Plan. Upon receipt of written approval from DTSC, Respondent shall commence the construction process and implement the Construction Workplan in accordance with the schedule and provisions contained therein. The Construction Workplan must be approved by DTSC prior to the start of corrective measure construction. The Construction Workplan must, at a minimum and without limitation, include the following elements:

##### 1. Introduction/Purpose

Describe the purpose of the document and provide a summary description of the project.

##### 2. Project Management

Describe the construction management approach including levels of authority and responsibility (include organization chart), lines of communication and the qualifications of key personnel who will direct the corrective measure construction effort and provide

construction quality assurance/quality control (including contractor personnel);

### 3. Project Schedule

The project schedule must include without limitation timing for key elements of the bidding process, timing for initiation and completion of all major corrective measure construction tasks as specified in the Final Plans and Specifications, and specify when the Construction Completion Report is to be submitted to DTSC;

### 4. Construction Quality Assurance/Quality Control Program

The purpose of construction quality assurance is to ensure, with a reasonable degree of certainty, that a completed corrective measure will meet or exceed all design criteria, plans and specifications. The Construction Workplan must include a complete construction quality assurance program to be implemented by Respondent.

### 5. Waste Management Procedures

Describe the wastes generated by construction of the corrective measure and how they will be managed.

### 6. Sampling and Monitoring

Sampling and monitoring activities may be needed for construction quality assurance/quality control and/or other construction related purposes. If sampling activities are necessary, the Construction Workplan must include a complete sampling and analysis section which specifies at a minimum and without limitation the following information:

- a. Description and purpose of monitoring tasks;
- b. Data quality objectives;
- c. Analytical test methods, method detection limits and practical quantitation limits;
- d. Name of analytical laboratory;
- e. Laboratory quality control (include laboratory QA/QC procedures in appendices)
- f. Sample collection procedures and equipment;
- g. Field quality control procedures:
  - duplicates (10% of all field samples)
  - blanks (field, equipment, etc.)
  - equipment calibration and maintenance
  - equipment decontamination
  - sample containers
  - sample preservation
  - sample holding times (must be specified)
  - sample packaging and shipment
  - sample documentation (field notebooks, sample labeling, etc.);

- chain of custody
- h. Criteria for data acceptance and rejection; and
- i. Schedule of monitoring frequency.

Respondent shall follow all DTSC and USEPA guidance for sampling and analysis. DTSC may request that the sampling and analysis section be a separate document.

7. Construction Contingency Procedures

- a. Changes to the design and/or specifications may be needed during construction to address unforeseen problems encountered in the field. Procedures to address such circumstances, including notification of DTSC, must be included in the Construction Workplan;
- b. The Construction Workplan must specify that, in the event of a construction emergency (e.g., fire, earthwork failure, etc.), Respondent will orally notify DTSC within 24 hours of the event and will notify DTSC in writing within 72 hours of the event. The written notification must, at a minimum, specify what happened, what response action is being taken and/or is planned, and any potential impacts on public health and/or the environment; and
- c. Procedures to be implemented if unforeseen events prevent corrective measure construction. For example, in certain circumstances both a primary and secondary corrective measure may be selected for the Facility. If the primary corrective measure could not be constructed, then the secondary would be implemented. This section would thus specify that if the primary corrective measure could not be constructed, then design plans would be developed for the secondary measure.

8. Construction safety procedures should be specified in a separate Health and Safety Plan.

9. Data Management and Documentation Requirements

Describe how analytical data and results will be evaluated, documented, and managed, including development of an analytical database. State the criteria that will be used by the project team to review and determine the quality of data.

The Construction Workplan shall specify that Respondent collect and maintain the following information:

- a. Progress Report Information

- Work Accomplishments (e.g., hours of operation, excavated volumes, nature and volume of wastes generated, area of cap completed, length of trench completed, etc.).
  - Record of significant activities (e.g., sampling events, inspections, problems encountered, action taken to rectify problems, etc.).
- b. Monitoring and laboratory data;
  - c. Records of construction costs; and
  - d. Personnel, maintenance, and inspection records.

This data and information should be used to prepare progress reports and the Construction Completion Report.

#### 10. Cost Estimate/Financial Assurance

If financial assurance for corrective measure construction and operation is required by an enforcement order, facility permit through use of DTSC discretion, the Construction Workplan must include without limitation a cost estimate, specify which financial mechanism will be used and when the mechanism will be established. The cost estimate shall include both construction and operation and maintenance costs. An initial cost estimate shall be included in the draft Construction Workplan and a final cost estimate shall be included in the final Construction Workplan. The financial assurance mechanism may include a performance or surety bond, a trust fund, a letter of credit, financial test, and corporate guarantee equivalent to that in the California Code of Regulations, Title 22, Section 66264.143, 66265.143 or any other mechanism acceptable to DTSC.

Financial assurance mechanisms are used to assure DTSC that Respondent has adequate financial resources to construct and operate the corrective measure.

#### **F. Construction Completion Report**

Respondent shall prepare a Construction Completion Report which documents how the completed project is consistent with the Final Plans and Specifications. A Construction Completion Report shall be submitted to DTSC when the construction and any operational tests have been completed. The Construction Completion Report shall, at a minimum and without limitation, include the following elements:

1. Purpose;
2. Synopsis of the corrective measure, design criteria, and certification that the corrective measure was constructed in accordance with the Final Plans and



Specifications;

3. Explanation and description of any modifications to the Final Plans and Specifications and why these were necessary for the project;
4. Results of any operational testing and/or monitoring, indicating how initial operation of the corrective measure compares to the design criteria;
5. Summary of significant activities that occurred during construction. Include a discussion of problems encountered and how they were addressed;
6. Summary of any inspection findings (include copies of key inspection documents in appendices);
7. As built drawings; and
8. A schedule indicating when any treatment systems will begin full scale operations.

**G. Corrective Measure Completion Report**

Respondent shall prepare a Corrective Measure Completion Report when Respondent believes that the corrective measure completion criteria have been satisfied. The purpose of the Corrective Measure Completion Report is to fully document how the corrective measure completion criteria have been satisfied and to justify why the corrective measure and/or monitoring may cease. The Corrective Measure Completion Report shall, at a minimum and without limitation, include the following elements:

1. Purpose;
2. Synopsis of the corrective measure;
3. Corrective Measure Completion Criteria  

Describe the process and criteria for determining when corrective measures, maintenance and monitoring may cease. Corrective measure completion criteria were given in the final Operation and Maintenance (O&M) Plan;
4. Demonstration that the completion criteria have been met. Include results of testing and/or monitoring, indicating how operation of the corrective measure compares to the completion criteria;
5. Summary of work accomplishments (e.g., performance levels achieved, total hours of treatment operation, total treated and/or excavated volumes, nature and volume of wastes generated, etc.);

6. Summary of significant activities that occurred during operations. Include a discussion of problems encountered and how they were addressed;
7. Summary of inspection findings (include copies of key inspection documents in appendices); and
8. Summary of total operation and maintenance costs.

#### **H. Submittal Summary**

The following list provides a summary of when and how key documents should be submitted to DTSC. TDTSC may adjust this list to meet site-specific circumstances.

1. The submittal schedule for the documents listed below should be included in an enforcement order, permit, or otherwise specified by DTSC.
  - CMI Workplan
2. The submittal schedule for the documents listed below must be specified in the CMI Workplan. The groupings reflect which documents should be submitted together.
  - Draft Plans and Specifications
  - Draft Operation and Maintenance Plan
  - Draft Construction Workplan
  - Final Plans and Specifications
  - Final Operation and Maintenance Plan
  - Final Construction Workplan
3. The submittal schedule for the document listed below must be specified in the Final Construction Workplan.
  - Construction Completion Report
4. The submittal schedule for the document listed below is based on when Respondent believes the completion criteria have been satisfied.
  - Corrective Measure Completion Report
1. The submittal schedule for Progress Reports and a Health and Safety Plan shall be specified in the order or permit.

## ATTACHMENT 7

### SCOPE OF WORK FOR PROGRESS REPORTS

Progress Reports shall, at a minimum and without limitation, include the following information:

1. A description of significant activities and work completed during the reporting period;
2. A summary of any findings made during the reporting period;
3. Summaries of all problems or potential problems encountered during the reporting period;
4. Actions taken and/or planned to rectify problems;
5. All projected work for the next reporting period;
6. A discussion of any changes in personnel that occurred during the reporting period;
7. Summaries of all contacts with representatives of the press, local community, or public interest groups during the reporting period;
8. Summary of treatment system effectiveness. Provide a comparison of treatment system operation to predicted performance levels (applicable only if there is an operating treatment system); and
9. If requested by DTSC, the results of any sampling tests and/or other data generated during the reporting period.

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sims Metal Management  
699 Seaport Boulevard  
Redwood City, CA 94063

EPA ID: CAD103500880

Sims Group USA Corporation  
699 Seaport Boulevard  
Redwood City, CA 94063

Docket HWCA-FY20/21-003

STATEMENT TO RESPONDENT

Enforcement Order

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TO THE ABOVE RESPONDENT:

An Enforcement Order (Order) is attached to this statement and is hereby served upon you. The Order has been filed by the Department of Toxic Substances Control (Department).

UNLESS A WRITTEN REQUEST FOR A HEARING SIGNED BY YOU OR ON YOUR BEHALF IS DELIVERED TO THE DEPARTMENT OR POSTMARKED WITHIN TWENTY DAYS AFTER THE DATE OF THE COVER LETTER YOU RECEIVED WITH YOUR COPY OF THE ORDER, YOU WILL BE DEEMED TO HAVE WAIVED YOUR RIGHT TO A HEARING IN THIS MATTER. IF YOU DO NOT FILE A TIMELY HEARING REQUEST, THE ENFORCEMENT ORDER BECOMES FINAL AUTOMATICALLY.

The request for a hearing may be made by delivering or mailing one copy of the enclosed form entitled "Notice of Defense" or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code to:

Chief Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd floor,  
P. O. Box 806  
Sacramento, California 95812-0806

The enclosed Notice of Defense, if signed and filed with the Department, is deemed a specific denial of all parts of the Order, but you will not be permitted to raise any objection to the form of the Order unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen days after service of the Order upon you.

If you file a Notice of Defense within the time permitted, a hearing on the allegations made in the Order will be conducted by the Office of Administrative Hearings of the Department of General Services in accordance with the procedures specified in Health and Safety Code section 25187 and Government Code sections 11507 et seq.

The hearing may be postponed for good cause. If you have good cause, you must notify the Department within ten working days after you discover the good cause. Failure to notify the Department within ten days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are attached. If you desire the names and addresses of witnesses or an opportunity to inspect and copy items in possession, custody, or control of the Department, you may contact:

Elias Ferran  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23<sup>rd</sup> Floor  
P. O. Box 806  
Sacramento, California 95812-0806

Whether or not you have a hearing, you may confer informally with the Department to discuss the alleged facts, determinations, corrective actions and penalty. An informal conference does not, however, postpone the twenty-day period you have to request a hearing on the Order. An informal conference may be pursued simultaneously with the hearing process.

You may but are not required to be represented by counsel at any or all stages of these proceedings.

## GOVERNMENT CODE

### **Section 11507.5. Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

### **Section 11507.6. Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant, and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her

investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

### **Section 11507.7. Motion to compel discovery**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.



**PROOF OF SERVICE**

1. I served: Sims Metal Management – Redwood City

- a.  Enforcement Order Docket No. HWCA-FY-20/21-003
- Statement to Respondent including Government Code " 11507.5, 1507.6, and 11507.7
- 2 Blank Notice of Defense Forms
- Request for Discovery
- Other (specify): Original Cover letter \_\_\_\_\_

b. On Respondent (Name): \_\_\_\_\_

c. By serving:  Respondent

Other (Name and Title or relationship to Respondent

\_\_\_\_\_

\_\_\_\_\_

2. a.  By personally delivering copies to (address)

\_\_\_\_\_

\_\_\_\_\_

at (time) \_\_\_\_\_ on (date) \_\_\_\_\_.

b.  By mailing copies by first-class certified mail,

Certified Mail Receipt No. 70181130000170787409 return receipt requested,  
in a sealed envelope addressed to: Mr. Vispi Patel, Vice President, Western  
Region, Sims Metal Management, 600 South 4th Street, Richmond, CA 94804

Certified Mail Receipt No. 7018 1130 0001 7078 7416 to: Ms. Margaret Rosegay, Pillsbury Winthrop Shaw Pittman  
LLP, Four Embarcadero Center, 22nd Floor, San Francisco, CA 94111-5998

3. My name, business address, and telephone number are:

Juanita Bacey

DTSC - 700 Heinze Ave, Berkeley, CA 94710

(916) 251-8141

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (date) 3/24/2022 at (place) U.S. Post Office, Berkeley, California.

(Signature)



STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sims Metal Management  
699 Seaport Boulevard  
Redwood City, CA 94063  
EPA ID: CAD103500880

Respondent

Sims Group USA Corporation  
699 Seaport Boulevard  
Redwood City, CA 94063

Docket No. HWCA-FY20/21-003

NOTICE OF DEFENSE

Health and Safety Code  
Section 25187(d)

I, the undersigned Respondent, acknowledge receipt of a copy of the Enforcement Order, Statement to Respondent, Government Code sections 11507.5, 11507.6, and 11507.7, and two copies of a Notice of Defense.

I request a hearing to permit me to present my defense to the allegations contained in the Enforcement Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Respondent)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Telephone Number)

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Sims Metal Management  
699 Seaport Boulevard  
Redwood City, CA 94063  
EPA ID: CAD103500880

Respondent

Sims Group USA Corporation  
699 Seaport Boulevard  
Redwood City, CA 94063

Docket No. HWCA-FY20/21-003

NOTICE OF DEFENSE

Health and Safety Code  
Section 25187(d)

I, the undersigned Respondent, acknowledge receipt of a copy of the Enforcement Order, Statement to Respondent, Government Code sections 11507.5, 11507.6, and 11507.7, and two copies of a Notice of Defense.

I request a hearing to permit me to present my defense to the allegations contained in the Enforcement Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Respondent)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Telephone Number)

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket No. HWCA-FY20/21-003

Sims Metal Management  
699 Seaport Boulevard  
Redwood City, CA 94063  
EPA I.D. #CAD103500880

REQUEST FOR DISCOVERY

Government Code  
Section 11507.6

Respondents

Sims Group USA Corporation  
699 Seaport Boulevard  
Redwood City, CA 94063

TO: Sims Group USA Corporation:

Pursuant to Government Code section 11507.6, the Department of Toxic Substances Control (Department) requests the following: (1) the names and addresses of all witnesses to the extent known to Sims Metal Management and Sims Group USA Corporation (Respondents), including, but not limited to, those intended to be called to testify at the hearing, and (2) an opportunity for the Department to inspect and make a copy of the following documents in the possession or custody or under the control of the respondent:

(a) All writings that respondent proposes to offer in evidence and all other

writings that are relevant and that would be admissible in evidence.

(b) A statement of any person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to such person is the basis for the administrative proceeding;

(c) A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

(d) Statements of witnesses proposed to be called by the respondent and of other persons having knowledge of the acts, omissions, or events that are the basis for the proceeding, not included in (b) or (c) above; and

(e) Investigative reports made by or on behalf of respondent pertaining to the subject matter of the proceeding, to the extent that such reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions, or events that are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this Request for Discovery, "statements" include written statements by the person, signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of such oral statements.

You are hereby further notified that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing that is

privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

Your response to this Request for Discovery should be made to the undersigned attorney for the Department by directing such response to:

Elias Ferran  
DTSC Senior Staff Attorney  
Office of Legal Counsel  
Department of Toxic Substances Control  
Chatsworth, California  
[Elias.Ferran@dtsc.ca.gov](mailto:Elias.Ferran@dtsc.ca.gov)

Failure without substantial justification to comply with this Request for Discovery may subject the respondent to sanctions by the Superior Court pursuant to Government Code section 11455.20.

Dated: March 21, 2022

*Elias Ferran*

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Elias Ferran  
Senior Staff Counsel  
Attorney for the Department of Toxic Substances Control

# News Release

T - 03- 22

Meredith Williams, Director

**FOR IMMEDIATE RELEASE**

March 28, 2022

Contact: Sanford (Sandy) Nax

(916) 416-4309

[Sanford.Nax@dtsc.ca.gov](mailto:Sanford.Nax@dtsc.ca.gov)

## State of California Orders Redwood City Metal Recycler to Investigate Extent of Pollution From its Operations

**SACRAMENTO** – California’s Department of Toxic Substances Control (DTSC) announced today that it has [ordered](#) the operators of Sims Metal Management in Redwood City to determine the extent of toxic pollution coming from their facility and to clean it up.

The facility is within two miles of several day care centers, parks, hospitals, schools and homes, and DTSC is concerned about potential health impacts on those populations. The 12-acre recycling and shredding operation is adjacent to Redwood Creek, a public trail and two islands that are part of the Don Edwards San Francisco Bay National Wildlife Refuge. Redwood Creek leads into San Francisco Bay.

“DTSC has a responsibility to protect communities and the environment from companies and industries that pollute,” said DTSC Director Dr. Meredith Williams. “Metal recycling facilities have drawn our attention because of the potential exposure from harmful materials coming from these types of operations.”

Sims receives, sorts, separates and stores bulk metal scrap for sale and export, and operates a conveyor that deposits the material onto ships.

The business located near the Port of Redwood City has a history of violating hazardous waste laws, including releasing elevated levels of lead, zinc and cadmium both on- and off-site. As recently as 2019, DTSC inspectors discovered hazardous waste levels of toxic chemicals in several places within facility grounds. Inspectors also found buildup of light fibrous materials, a hazardous substance, on the facility’s pavement and near its operations.

The investigation and cleanup evaluation will include recent and historical release at the facility, including any impacts from a March 9 fire.

This enforcement order is the latest in a string of similar actions by DTSC against metal recyclers and shredders statewide. Many of these operations are in neighborhoods that suffer from high amounts of pollution, according to [CalEnviroScreen](#), an online tool that identifies vulnerable communities.

Under the enforcement order, the named parties must meet certain deadlines and submit required investigation reports to DTSC, including a plan for cleaning up contamination. DTSC will notify the surrounding community so residents can weigh in on the proposed cleanup plan.

###

FOR GENERAL INQUIRIES: Contact the Department of Toxic Substances Control by phone at (800) 728-6942 or visit [www.dtsc.ca.gov](http://www.dtsc.ca.gov). To report illegal handling, discharge, or disposal of hazardous waste, call the Waste Alert Hotline at (800) 698-6942.

DTSC's Mission is to protect California's people, communities, and environment from toxic substances, to enhance economic vitality by restoring contaminated land, and to compel manufacturers to make safer consumer products.



## SIMS PERMIT

Ms denise follmar <[REDACTED]>

Wed 5/4/2022 9:07 AM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Mayor Lightfoot and Commissioner Arwady:

According the implementation schedule in the Large Recycling Facility rules and based on the fact that Sims' previous permit expired on November 15, 2021, Sims is required to comply with the Operating Standards of the Large Recycling Facility rules by May 16, 2022. That's less than 2 weeks from today and CDPH hasn't even announced a date for a community meeting regarding the application! Based on the CDPH's own rules and regulations, Sims should absolutely NOT be allowed to operate beyond May 16 without a Large Recycling Facility permit.

## Sims vs. Southside Recycling

Brian Joseph <[REDACTED]>

Wed 5/4/2022 9:08 AM

To: envcomments <envcomments@cityofchicago.org>

[Warning: External email]

Chicago Department of Public Health:

How can CDPH deny a permit to Southside Recycling based on alleged compliance issues at RMG facilities that have nothing to do with Southside Recycling, while at the same time allow Sims to continue operating a facility that has NO pollution controls on its shredder, has FAR more compliance issues than RMG and is located in an Environmental Justice area such as Pilsen, which is even closer to vulnerable populations than Southside Recycling or any other RMG facility?

Thank you.