

**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*,

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,
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