



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

June 27, 2019

Sims Brothers, Inc.
1011 South Prospect Street
Marion, Ohio 43302

**Re: Sims Brothers, Inc.
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Marion County
MSWL022519**

Sims Realty Limited Partnership
c/o Scott T. Knowles, Registered Agent
1011 South Prospect Street
Marion, Ohio 43302

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Sims Brothers, Inc.

If you have any questions, please contact Teri Finfrock at (614) 644-3037.

Sincerely,

Jeri Main, Administrative Professional Unit
Division of Materials & Waste Management

Enclosure

ec: Teri Finfrock, Legal
Robin Nichols, Legal
Sue Hardy, DMWM, NWDO
Mike Reiser, DMWM, NWDO
Bruce McCoy, DMWM, CO
Kelly Jeter, DMWM, CO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Sims Brothers, Inc.
1011 South Prospect Street
Marion, Ohio 43302

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Director's Final Findings
and Orders

Sims Realty Limited Partnership
c/o Scott T. Knowles, Registered Agent
1011 South Prospect Street
Marion, Ohio 43302

Respondents

PREAMBLE

Ohio EPA JUN 27 '19
Entered Directors Journal

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Sims Brothers, Inc. ("Sims Bros.") and Sims Realty Limited Partnership ("Sims Realty") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

Nothing in these Findings shall be considered to be an admission by Respondents of any matter of law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent Sims Realty is the owner of real property identified by the Marion County Auditor's Office as parcel number 180060000100. The parcel is located at 1044 South Prospect Street, Marion, Ohio 43302 ("the Property" or "the Facility").
2. Respondent Sims Bros. operates a scrap metal recycling service at the Property.
3. Respondents are each a "person" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3) .
4. Respondent Sims Realty is a "property owner" as that term is defined in OAC Section 3745-27-01(O)(7).
5. ORC Section 3734.03 states that "[n]o person shall dispose of solid wastes by open burning or open dumping[.]"
6. OAC Rule 3745-27-05(C) provides that "[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734, of the Revised Code, and shall submit verification that the solid waste has been properly managed."
7. On July 14, 2016, Ohio EPA inspected the Property following receipt of a complaint. During the inspection Ohio EPA observed three (3) piles located on the Property, which contained waste materials.
8. Two of the three piles (known as Piles B and C) were sampled and the results were submitted to Ohio EPA in January of 2017. The results demonstrated that the two piles did not exhibit a characteristic of a hazardous waste. On May 10, 2017, Ohio EPA issued a notice of violation for open dumping of solid wastes regarding the two piles.
9. On August 31, 2017, Respondent Sims Bros. submitted via email disposal receipts and pictures demonstrating one of the three piles (known as Pile C) had been removed and properly disposed. The disposal receipts also indicated partial removal of a second pile (known as Pile B), which is commingled with Pile

- A. The removal of Pile B ceased in October 2017 when Ohio EPA requested sampling of Pile A.
10. On January 29, 2018, Ohio EPA received email correspondence from Respondent Sims Bros., including results of Respondent Sims Bros.' analysis conducted in accordance with OAC Rule 3745-52-11 for the pile known as Pile A, indicating that the material did not exhibit a characteristic of a hazardous waste.
 11. In correspondence dated March 2, 2018, Ohio EPA notified Respondent Sims Bros. that the material remaining on the Property located in Pile A, as depicted in Attachment 1, is solid waste due to waste materials contained therein, and that the placement of this material on the ground at the Property constitutes open dumping in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C).
 12. On May 15, 2018, Ohio EPA met with representatives of Respondent Sims Bros. to discuss the status of the Property, along with potential plans for addressing the violations at the Property.
 13. By electronic correspondence on July 11, 2018, Respondent Sims Bros. submitted to Ohio EPA a proposed timeline for resolution of violations. The timeline included the removal of all remaining material at a rate of 3,000 tons per year, over a 7-year timeframe.
 14. All sampling and analyses of Piles A, B, and C returned results indicating that the materials are not a hazardous waste. Respondents deny that any of the material in Piles A, B, or C are a solid waste.

V. ORDERS

Respondents shall achieve compliance with ORC Chapter 3734 and the rules promulgated thereunder according to the following compliance schedule:

1. Not later than April 1, 2019, Respondents shall commence the removal and disposal at a licensed solid waste disposal facility of Piles A and B, identified in Attachment 1. Respondents shall obtain receipts for the disposal of all the material, shall maintain the receipts at the Property until termination of this Order, and shall make the receipts available to Ohio EPA upon request. Respondents shall remove and dispose of Piles A and B in accordance with the following schedule until all material in Piles A and B are removed from the Property and lawfully disposed:
 - a. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between July 1, 2019 and January 1, 2020;

- b. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between January 1, 2020 and July 1, 2020;
 - c. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between July 1, 2020 and January 1, 2021;
 - d. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between January 1, 2021 and July 1, 2021;
 - e. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between July 1, 2021 and January 1, 2022;
 - f. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between January 1, 2022 and July 1, 2022;
 - g. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between July 1, 2022 and January 1, 2023;
 - h. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between January 1, 2023 and July 1, 2023;
 - i. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between July 1, 2023 and January 1, 2024;
 - j. Not less than one thousand seven hundred fifty (1,750) tons shall be removed and disposed between January 1, 2024 and July 1, 2024;
 - k. Respondents shall ensure that Piles A and B are fully removed from the Property and lawfully disposed at a licensed solid waste disposal facility no later than July 1, 2025.
2. Respondents may request, in writing, that the schedule set forth in Order 1 above be amended should there be unavoidable circumstances that substantially inhibit compliance with the above schedule, which Ohio EPA may approve in writing.

VI. TERMINATION

Respondents obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and Ohio EPA's Chief, Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then

Ohio EPA will notify Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation from Respondents: "We certify that the information contained in or accompanying this certification is true, accurate, and complete."

This certification shall be submitted to Ohio EPA by Respondents seeking termination in accordance with this section and shall be signed by a responsible official of each Respondent. For purposes of these Orders, a responsible official is: in the case of a corporation, a principal executive officer of at least the level of vice president, or the duly authorized representative if that representative is responsible for the overall operation of the Facility; in the case of a partnership, a general partner.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, Respondents or the Property.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents or the Property.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondents under these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Materials and Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

Respondents consent to the issuance of these Orders and agree to comply with these Orders. Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

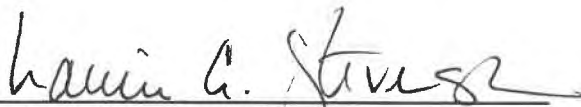
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

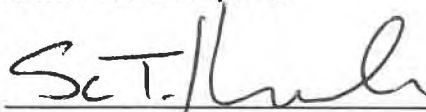
Environmental Protection Agency



Laurie A. Stevenson, Director

AGREED:

Sims Brothers, Inc.



Signature

6/15/19
Date

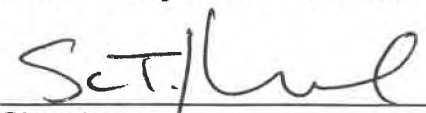
SCOTT KNOWLES

Printed or Typed Name

CEO, GENERAL COUNSEL

Title

Sims Realty Limited Partnership



Signature

6/15/19
Date

SCOTT KNOWLES

Printed or Typed Name

CEO, GENERAL COUNSEL

Title

Attachment 1

