



State of Utah

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Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Scott T. Anderson
Director

May 25, 2016

Bradley R. Cahoon
Snell & Wilmer
15 West South Temple, Suite 1200
Salt Lake City, UT 84101-1547

RE: Western Metals Recycling
Final Stipulation and Consent Order

Dear Mr. Cahoon:

Enclosed are two copies of the final STIPULATION AND CONSENT ORDER (SCO) No. 1604014 for resolution of NOTICE OF VIOLATION No. 1210011. The public comment period for the SCO started on April 19, 2016 and ended on May 18, 2016. No comments were received.

Please have the appropriate Western Metals Recycling officer sign both copies and return them to the Division for final signature and date. A signed copy will be sent to you for your records.

If you have any questions, please call Deborah Ng at (801) 536-0218 or Raymond Wixom at (801) 536-0213.

Sincerely,

Scott T. Anderson, Director
Division of Waste Management and Radiation Control

STA/DSN/kl

Enclosure: Stipulation and Consent Order No. 1604014 (DSHW-2016-008890)

c: Gary Edwards, MS, Health Officer, Salt Lake County Health Dept.
Royal DeLegge, MPA, EHS, Environmental Health Director, Salt Lake County Health Dept.
David Duster, USEPA Region 8 Enforcement

DSHW-2016-010004

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<p>In the Matter of:</p> <p>Western Metals Recycling LLC 4221 West 700 South Salt Lake City, Utah 84104</p> <p>Notice of Violation and Compliance Order No. 121001</p>	<p>STIPULATION AND CONSENT ORDER RESOLVING NOTICE OF VIOLATION AND REQUEST FOR AGENCY ACTION</p> <p>No. 1604014</p> <p>Bret F. Randall, Administrative Law Judge</p>
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This **STIPULATION AND CONSENT ORDER RESOLVING NOTICE OF VIOLATION AND REQUEST FOR AGENCY ACTION** is issued by the Director of the Division of Waste Management and Radiation Control (Division) pursuant to the Utah Solid and Hazardous Waste Act, Utah Code Ann. §19-6-101, *et seq.*, and the Used Oil Management Act, 19-7-101, *et seq.* (Acts).

JURISDICTION

1. The Director has jurisdiction over the subject matter of this **STIPULATION AND CONSENT ORDER** (SCO) pursuant to the Solid and Hazardous Waste Act and the Used Oil Management Act, and jurisdiction over Western Metals Recycling, LLC (Western Metals). Western Metals and the Director are the parties to this agreement.

FINDINGS

2. Western Metals is licensed to do business in the State of Utah.
3. Western Metals conducts ferrous and non-ferrous scrap metal processing and recycling operations at approximately 4221 West 700 South, Salt Lake City, Utah (Facility).
4. Western Metals is a “person” as defined in Utah Code Ann. § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code and the Act.
5. Authorized representatives of the Director of the then Division of Solid and Hazardous Waste conducted inspections at the Western Metals Facility on February 17, 2012, August 15, 2012, August 16, 2012, and October 25, 2012.

6. A Notice of Violation and Compliance Order No. 1210011 (NOV/CO) was issued to Western Metals on June 25, 2013.
7. On or about July 23, 2013, Western Metals filed a Request for Agency Action asking for a hearing and to vacate the NOV/CO, and the Director filed a Response to the same on or about September 3, 2014.
8. An administrative law judge was appointed, a scheduling order, as amended, was entered, and the parties exchanged and responded to discovery requests.
9. The parties have agreed to various stays and stay extensions to proceedings in this matter in order to discuss possible settlement of the NOV/CO and the Request for Agency Action.
10. On February 11, 2014, the parties entered into Stipulation and Consent Order No. 1311029 resolving Findings of Violation 1, 3, and 4 of the NOV/CO.

STIPULATION AND CONSENT ORDER

11. The parties now wish to fully resolve Finding of Violation 2, and the entirety of the NOV/CO, without further administrative or judicial proceedings.
12. Western Metals and the Director disagree on the facts alleged in the NOV/CO concerning Finding 2. They disagree on the laws applicable to Finding 2 and on the proper interpretation of those laws.
13. The parties agree that Western Metals has taken significant steps to respond to concerns the Director and his staff have raised regarding the Western Metals Facility. Western Metals has made changes in managers. Communication between the Director's staff and Western Metals representatives has significantly improved since the NOV/CO was issued.
14. The parties agree that further adjudication concerning Finding 2 is not in the best interest of the parties or the public.
15. By entering into this SCO, Western Metals is not conceding or otherwise relinquishing its argument that it is not subject to the Acts. The Director is not conceding or otherwise relinquishing his argument that Western Metals is subject to the Acts or to any other law he is responsible to administer.

EFFECT OF CONSENT ORDER

16. For purposes of this **CONSENT ORDER**, the parties agree and stipulate to the above stated facts. The stipulations contained herein are for the purposes of settlement and are not admissions by any party and may not be used by any person related or unrelated to this **CONSENT ORDER** for purposes other than determining the basis of this **CONSENT ORDER**. Nothing contained herein constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against Western Metals in the event of future non-compliance with this **CONSENT ORDER**, the Acts, or the Utah Administrative Code; nor shall the State be precluded in any way from taking appropriate enforcement action against Western Metals.

However, entry into this **CONSENT ORDER** relieves Western Metals of all liability for Finding of Violation 2 and for other violations, if any, which did arise or could have arisen with respect to the allegations contained in the NOV/CO. This **CONSENT ORDER** resolves Western Metals' Request for Agency Action.

EFFECTIVE DATE

17. This **CONSENT ORDER** shall become effective upon execution by Western Metals and the Director.

Dated this _____ day of _____, 2016.

Western Metals Recycling, LLC

Name:

Scott T. Anderson, Director

Title:

Division of Waste Management and Radiation Control