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In the Matter of:	:	<b>STIPULATION AND CONSENT ORDER</b>
	:	
Simons Petroleum LLC	:	<b>No. 2202017</b>
(also known as Simons Petroleum, LLC)	:	
Notice of Violation and Compliance Order	:	
No. 2109003	:	
OKR000017897	:	

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the **DIRECTOR OF THE UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL** (DIRECTOR) pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.* and the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*

**JURISDICTION**

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-107, 19-6-112, 19-6-721, and 19-6-721.1 and jurisdiction over Simons Petroleum LLC, A.K.A. Simons Petroleum, LLC (Simons Petroleum). Simons Petroleum consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this ORDER. Simons Petroleum and the Director are the parties to this agreement.

**FINDINGS**

2. Simons Petroleum is a limited liability company. Simons Petroleum is the operator of the Simons Petroleum Vernal facility located at 1157 East 135 South, Vernal, Utah.
3. Simons Petroleum is a used oil transporter operating in Utah. Simons Petroleum operates in Utah under the provisions of the Simon Petroleum Used Oil Transporter Permit (UOP-0076).
4. Simons Petroleum is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules), the Act, and the Permit.
5. On May 20, 2021, authorized representatives of the Director (inspectors) conducted a used oil inspection at the Simons Petroleum Vernal facility.
6. Based on findings documented during the inspection, the Director issued Notice of Violation and Compliance Order No. 2109003 (NOV/CO) on January 7, 2022, which alleged violations of the Rules and the Permit.

7. On May 20, 2021, inspectors documented that Simons Petroleum had transported used oil in containers other than those specified in the Permit.
8. On May 20, 2021, inspectors documented that Simons Petroleum had failed to train all of its employees who handle used oil in Utah in the manner specified by Condition II.E of the Permit.
9. On May 20, 2021, inspectors documented that Simons Petroleum failed to record the halogen content, EPA Identification number, and other permit-required information on the shipping documents.
10. On February 8, 2022, Simons Petroleum filed a written response addressing the alleged violations in the NOV, addressing, but not contesting, the charges in the NOV.
11. On August 30, 2022, the Director and his representatives met with Simons Petroleum to discuss requirements of the Act and the Rules and resolution of the NOV/CO.
12. Based on information provided during the August 30, 2022 meeting, Simons Petroleum has addressed the cited violations by training all employees who handle used oil in the manner required by its permit, including how to test for halogens.
13. The Director finds Simons Petroleum has made a timely, good faith effort to address the violations cited in the NOV/CO.
14. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102 of the Rules, which considers such factors as the gravity of the violations, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2109003.

### **STIPULATION AND CONSENT ORDER**

15. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve Notice of Violation and Compliance Order No. 2109003 without further administrative or judicial proceedings.
16. In full settlement of the violations alleged in NOV/CO No. 2109003, Simons Petroleum shall pay a penalty of \$4,545.20 (four thousand, five hundred forty-five dollars and twenty cents). Simons Petroleum shall make payment to the State of Utah, Department of Environmental Quality, c/o Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880, as follows:
  - a. A cash payment of \$2,291.60 (two thousand, two hundred ninety-one dollars and sixty cents) shall be made within thirty days after the effective date of this CONSENT ORDER.
  - b. An amount of \$750.00 (seven hundred fifty dollars) shall be deferred and waived by the Director if Simons Petroleum trains all its employees who handle used oil in Utah in the manner specified by Condition II.E of the Permit for a minimum of two years from the effective date of this CONSENT ORDER. If the Director finds Simons Petroleum violated requirements of Condition II.E of its permit within that period, Simons Petroleum shall pay the amount of

\$750.00 (seven hundred fifty dollars) within thirty (30) days after any notice of violation is issued by the Director after the effective date of this CONSENT ORDER.

- c. An amount of \$1,503.60 (one thousand five hundred three dollars and sixty cents) shall be deferred and waived by the Director if Simons Petroleum remains in compliance with the tracking requirements in Permit Condition I.F.2 for a minimum of two years from the effective date of this CONSENT ORDER. If the Director finds Simons Petroleum violated requirements of Condition I.F.2 of its permit within that period, Simons Petroleum shall pay the amount of \$1,503.60 (one thousand five hundred three dollars and sixty cents) within thirty (30) days after any notice of violation that was issued by the Director after the effective date of this CONSENT ORDER.
  - d. If Simons Petroleum fails to pay the amount specified in Section 16.a within the allotted time, the Director will not defer nor waive the amount specified in Section 16.b.
17. Simons Petroleum shall immediately cease transporting used oil in any containers other than those specified in the Permit.
  18. Simons Petroleum shall immediately train all of its employees who handle used oil in Utah in the manner specified by Condition II.E of the Permit.
  19. Simons Petroleum shall record the halogen content, EPA Identification number and other permit required information on its shipping documents.

#### **EFFECT OF CONSENT ORDER**

20. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon Simons Petroleum and any of Simons Petroleum's successors, assigns, or other entities or persons otherwise bound by law.
21. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall 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 shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against Simons Petroleum in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, or with the Permit; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the Simons Petroleum Vernal facility. However, entry into this CONSENT ORDER shall relieve Simons Petroleum of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2109003.

#### **EFFECTIVE DATE**

22. This CONSENT ORDER shall become effective upon the date of execution by the Director .

**PUBLIC PARTICIPATION**

23. This CONSENT ORDER shall be subject to public notice and comment for a period of at least thirty (30) days (Comment Period) in accordance with Utah Admin. Code R315-124-34. The Director reserves the right to withdraw or withhold its consent if any comment received during the Comment Period disclose facts or consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

**SIGNATORY**

24. The undersigned representative of Simons Petroleum certifies he is authorized to enter into this CONSENT ORDER and to execute and legally bind Simons Petroleum.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the *Matter of Simons Petroleum Notice of Violation and Compliance Order No. 2109003*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 220201 as evidenced below:

SIMONS PETROLEUM LLC

THE STATE OF UTAH  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WASTE MANAGEMENT  
AND RADIATION CONTROL

\_\_\_\_\_  
James A. Edwards, Senior Vice President and  
Chief Legal Officer

\_\_\_\_\_  
Douglas J. Hansen, Director

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

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