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In the Matter of:	:	<b>STIPULATION AND CONSENT ORDER</b>
	:	
Simons Petroleum LLC	:	<b>No. 2202018</b>
(also known as Simons Petroleum, LLC)	:	
Notice of Violation and	:	
Compliance Order No. 2109004	:	
UTR000005124	:	

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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** pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.* Utah Administrative Code R315-15 (the Rules), 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. The Simons Petroleum Vernal facility is a used oil transfer facility located in Uintah County, Utah. Simons Petroleum operates the Simons Petroleum Vernal facility under the provisions of the Simon Petroleum Used Oil Transfer Facility Permit (UOP-0075).
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, on January 12, 2022, the Director issued Notice of Violation and Compliance Order No. 2109004 (NOV/CO), which alleged violations of the Rules and the Permit.
7. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility failed to remove, within 24 hours, liquid and saturated absorbent material from the containment around the sunken, 3,000-gallon used oil tank located in the northwest corner of the warehouse.

8. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility stored used oil at the Facility in unpermitted areas without a secondary containment system of sufficient extent to prevent used oil releases from containers.
9. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility stored used oil in excess of 35 consecutive days at its facility.
10. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility failed to conduct the permit-required weekly inspections at its facility.
11. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility failed to supply and maintain spill kits as required by the Permit.
12. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility failed to label all used oil drums and containers at the facility with the words "Used Oil."
13. On May 20, 2021, inspectors documented that the Simons Petroleum Vernal facility failed to determine whether unknown liquid and an aerosol can in a 55-gallon drum were hazardous wastes.
14. On February 8, 2022, Simons Petroleum filed a written response addressing the alleged violations in the NOV but did not contest the charges in the NOV.
15. 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.
16. Based on information provided during the August 30, 2022 meeting, Simons Petroleum has addressed the cited violations as follows:
  - a. Simons Petroleum has agreed to obtain a used oil processor permit for this facility and to extend the permitted storage area with appropriate secondary containment.
  - b. Simons Petroleum trained all employees who handle used oil to the requirements in the permit.
  - c. Simons Petroleum has removed the 3000-gallon sunken tank and will replace it with an above-ground storage tank for the storage of used oil.
  - d. Simons Petroleum has agreed to inspect the facility on a weekly basis as required by the permit.
  - e. Simons Petroleum has agreed to stock adequate spill response supplies at the facility as required by the permit.
17. The Director finds Simons Petroleum has made a timely, good faith effort to address the violations cited in the NOV/CO.
18. In accordance with the Civil Penalty Policy, Utah Administrative 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. 2109004.

## STIPULATION AND CONSENT ORDER

19. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve Notice of Violation and Compliance Order No. 2109004 without further administrative or judicial proceedings.
20. In full settlement of the violations alleged in NOV/CO No. 2109004, Simons Petroleum shall pay a penalty of \$21,963.00 (twenty-one thousand nine hundred sixty-three dollars). Simons Petroleum shall make payment to the State of Utah, Department of Environmental Quality, c/o Douglas J. Hansen, 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 \$12,075.00 (twelve thousand seventy-five dollars) shall be made within thirty days after the effective date of this CONSENT ORDER.
  - b. The amount of \$2,880.00 (two thousand eight hundred eighty dollars) shall be deferred and waived by the Director if Simons Petroleum remains in compliance with the storage requirements of its permit by storing used oil only in areas permitted for used oil storage that have adequate secondary containment for a minimum of two years from the effective date of this CONSENT ORDER. If the Director finds Simons Petroleum stored used oil outside of areas permitted for used oil storage or in areas that lack adequate secondary containment within two years of the effective date of this CONSENT ORDER, Simons Petroleum shall pay the amount of \$2,880.00 (two thousand eight hundred eighty dollars) within thirty (30) days of that date.
  - c. An amount of \$690.00 (six hundred ninety dollars) shall be deferred and waived by the Director if Simons Petroleum submits a complete used oil processor permit application for its Vernal facility within one year of the effective date of this CONSENT ORDER. If the Director finds Simons Petroleum has not been issued, through its fault, the processor permit within two years of the effective date of this CONSENT ORDER, Simons Petroleum shall pay the amount of \$690.00 (nine thousand four hundred three dollars) within thirty (30) days of that date.
  - d. An amount of \$4,608.00 (four thousand six hundred eight dollars) shall be deferred and waived by the Director if Simons Petroleum remains in compliance with the inspection requirements of Condition I.D.2 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 I.D.2 of the Permit within that period, Simons Petroleum shall pay the amount of \$4,608.00 (four thousand six hundred eight dollars) within thirty (30) days after any notice of violation that was issued by the Director after the effective date of this CONSENT ORDER becomes final.
  - e. An amount of \$1,050.00 (one thousand fifty dollars) shall be deferred and waived by the Director if Simons Petroleum remains in compliance with the spill kit requirements of Condition II.F.7 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.F.7 of the Permit within that period, Simons Petroleum shall pay the amount of \$1,050.00 (one thousand fifty dollars) within thirty (30) days after any notice of violation that was issued by the Director after the effective date of this CONSENT ORDER becomes final.
  - f. An amount of \$660.00 (six hundred sixty dollars) shall be deferred and waived by the Director if Simons Petroleum remains in compliance with the labeling requirements of R315-15-4.6(e) or R315-15-5.5(d) of the Utah Administrative Code (UAC) for a minimum of two years from the effective date of this CONSENT ORDER. If the Director finds Simons Petroleum failed to comply with the labeling requirements of R315-15-4.6(e) or R315-15-5.5(d) (UAC) within that

period, Simons Petroleum shall pay the amount of \$660.00 (six hundred sixty dollars) within thirty (30) days of that date.

If Simons Petroleum fails to pay the amount specified in section 20.a within the allotted time, the Director will not defer nor waive the amounts specified in 20.b, c, and d.

21. Simons Petroleum was ordered in the NOV/CO to immediately remove all liquid, sludge, and spill cleanup materials from the secondary containment around the 3,000-gallon used oil tank. Documentation of the cleanup shall be submitted to the Director within 15 days after the effective date of this CONSENT ORDER.
22. Simons Petroleum was ordered in the NOV/CO to immediately move and store used oil containers in areas specified by the Permit that have adequate secondary containment to contain spills. Documentation of the proper container storage shall be submitted to the Director within 15 days of receipt of this CONSENT ORDER.
23. Simons Petroleum was ordered in the NOV/CO to immediately begin conducting and documenting weekly inspections of the Facility as required by the Permit. Documentation of the weekly inspections shall be submitted to the Director within 15 days after the effective date of this CONSENT ORDER.
24. Simons Petroleum was ordered in the NOV/CO to immediately supplement and maintain spill kits as required by the Permit. Documentation that the spill kits have been properly stocked shall be submitted to the Director within 15 days after the effective date of this CONSENT ORDER.
25. Simons Petroleum was ordered in the NOV/CO to immediately label all used oil drums and containers at the Facility with the words "Used Oil." Documentation that the containers have been labeled shall be submitted to the Director within 15 days after the effective date of this CONSENT ORDER.
26. Simons Petroleum shall henceforth ensure that wastes generated or received at the Facility are properly characterized at the point of generation.

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

27. 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.
28. 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. 2109004.

## **EFFECTIVE DATE**

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

## **PUBLIC PARTICIPATION**

30. This CONSENT ORDER shall be subject to public notice and comment for a period of at least 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 discloses facts or consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

**SIGNATORY**

31. 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. 2109004*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2202018 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

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

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

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