

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re: Stericycle, Inc.)	
Utah Title V Permit)	
No. 1100055002)	Appeal Number: CAA 13-01
)	

MOTION OF THE ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR AND RADIATION FOR A REVISED DUE DATE FOR RESPONSE TO THE PETITION

The Environmental Protection Agency Office of Air and Radiation (OAR) respectfully requests that the Environmental Appeals Board (EAB or Board) establish a revised due date for OAR's response to the appeal filed in the above-captioned matter, in light of the recent government shutdown.

The Board requested that OAR prepare and file a response to the appeal filed in the above-captioned matter by October 15, 2013. Letter from Eurika Durr, Clerk of the Board, to Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation, dated September 13, 2013 (Exhibit 1). Due to a lapse in appropriations, the government was partially shut down from October 1, 2013, through October 16, 2013; the government reopened on October 17, 2013. In anticipation of a potential government shutdown, the EAB had published the following notice on its website:

In the event of a government shutdown, the Environmental Appeals Board will close. The Board will reopen when funding is restored. **Parties need not file extension motions in advance of the potential shutdown.** The Board will address extension motions as appropriate when the shutdown has ended and will consider any motion filed commensurate with the circumstances presented. Additionally, all filings submitted to the Board during a government shutdown will be processed when the Board reopens.

Archived webpage from October 1, 2013 (emphasis in original)(Exhibit 2). The Board also published a similar message on its website during the government shutdown. Cached webpage from October 7, 2013 (Exhibit 3).

As the due date for OAR's response occurred during the government shutdown, and in light of the shutdown notice provided by the EAB, OAR now respectfully requests that the Board establish a new deadline for OAR's response to the appeal in the above-captioned matter. The government was shut down for 16 days; October 31, 2013, is 16 days after the original response date of October 15. OAR respectfully requests that the Board establish October 31, 2013, as the new response date. This relief is needed, as counsel for OAR, in conjunction with OAR, had planned to prepare and file a response to this petition during the period of the government shutdown, but did not work on this matter during the shutdown.

Counsel for OAR telephoned and emailed petitioners to obtain petitioners' views on this motion. Petitioner Cindy King responded that she does not object to the relief requested. As of the time of filing, counsel for OAR did not receive a response from petitioner Bradley Angel.

In conclusion, and for the foregoing reasons, the EPA Office of Air and Radiation respectfully requests that the Board grant this motion to establish a new response date of October 31, 2013.

Date: October 17, 2013

Respectfully Submitted,

A handwritten signature in cursive script, reading "James J. Havard".

James J. Havard
Air and Radiation Law Office
EPA Office of General Counsel
1200 Pennsylvania Ave. N.W. (MC 2344A)
Washington, D.C. 20460
(202) 564-5544 (phone)
(202) 564-5603 (fax)
Havard.James@epa.gov

Steve Odendahl
Associate Regional Counsel
US EPA Region 8
1595 Wynkoop St., 8RC
Denver, CO 80202
(303) 312-6219 (phone)
(303) 312-6859 (fax)
Odendahl.Steve@epa.gov

BEFORE THE ENVIRONMENTAL APPEALS BOARD
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WASHINGTON, D.C.

)	
In re: Stericycle, Inc.)	
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)	

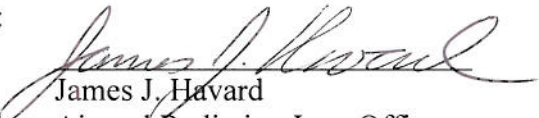
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion of the Environmental Protection Agency Office of Air and Radiation for a Revised Due Date for Response to the Petition was served via email on:

Bradley Angel
bradley@greenaction.org
Greenaction for Health and Environmental Justice
703 Market Street, Suite 501, San Francisco, CA 94103

Cindy King
Concerned Salt Lake City Area Residents Against Stericycle Incinerator
2963 South 2300 East, Salt Lake City, Utah 84109

Shannon Broome
shannon.broome@kattenlaw.com
Katten Muchin Rosenman LLP
2900 K Street, NW – North Tower, Suite 200
Washington, DC 20007
Counsel for Stericycle, Inc.

By: 
James J. Havard
Air and Radiation Law Office
EPA Office of General Counsel

October 17, 2013, Washington, D.C.

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re: Stericycle, Inc.)
Utah Title V Permit)
No. 1100055002)
)

Appeal Number: CAA 13-01

**EXHIBITS TO MOTION OF THE ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF AIR AND RADIATION FOR A REVISED DUE DATE FOR RESPONSE
TO THE PETITION**

Exhibit 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ENVIRONMENTAL APPEALS BOARD

SEP 13 2013

Janet McCabe
Acting Assistant Administrator
U.S. Environmental Protection Agency
Office of Air and Radiation
1200 Pennsylvania Avenue, NW
Mail Code 6101A
Washington, DC 20460

Re: Stericycle Inc.
Permit: Utah Title V No.1100055002
Appeal Number: CAA 13-01

Dear Ms. McCabe:

This is to advise you that the Environmental Appeals Board ("Board" or "EAB") received an appeal from Greenaction for Health and Environmental Justice and Concerned Salt Lake City Area Residents Against Stericycle Incinerator on August 15, 2013. The appeal asks the Board to "expedite consideration" of a "petition for review" filed with the Environmental Protection Agency four years ago requesting that the Agency object to the Stericycle Title V permit decision issued by the Utah Division of Air Quality to Stericycle Medical Waste Incinerator.

A copy of the 2013 appeal and exhibits, if any, can be found on the Board's website at www.epa.gov/eab (click "EAB Dockets" on the sidebar, click on the "Active Dockets" link, and then click on the appropriate case name). If you have any difficulty accessing these documents, please let me know. We are also enclosing a copy.

To assist the Environmental Appeals Board in deciding whether the matters petitioners raise should be reviewed, please have your staff prepare a response to the attached 2013 appeal. Such response should be filed no later than **October 15, 2013**.

A copy of this letter is being sent to Stericycle Inc. as notification of this appeal and these filing requirements. A copy of this letter is also being sent to the petitioners as notification of these filing requirements

Filing Requirements

Filing may be accomplished electronically pursuant to the Board's Order of August 12, 2013.¹ Alternatively, filing may be accomplished by filing a paper original (signed in blue ink) and two copies of these materials with the Board (at the address shown below) by the date specified above. A copy must be sent to Petitioner, and a certificate of service showing the date and method of service should be included with the filing.

IMPORTANT: All documents filed, including the materials due October 15, 2013, must reference the appeal number and the name, address, and telephone number of the filer. If available, the filer also should provide a fax number and an email address. **In addition, any envelope or other packaging containing documents sent to the Environmental Appeals Board's mailing address or hand-delivery address, as prescribed below, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and appeal number in the lower left hand corner.**²

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address, which is:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

Hand Delivery Address

¹ The Board has issued an Order authorizing the electronic filing of documents in cases involving permit appeals. *See* Order Authorizing Electronic Filing in Proceedings Before the Environmental Appeals Board Not Governed by 40 C.F.R. Part 22 (Aug. 12, 2013), *available at* <http://www.epa.gov/eab> (click "Standing Orders" on sidebar). Instructions on registration and document filing are available by using the "Electronic Filing" link on the Board's website.

² All mail sent to the Environmental Protection Agency may be delayed by a random sterilization procedure. Parties are encouraged to utilize the Board's e-filing system or hand or courier delivery when filing pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (www.epa.gov/eab) at the Clerk of the Board or Frequently Asked Questions links.

Documents that are **hand-carried**, delivered via Courier, mailed by Express Mail or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
WJC East, Room 3332
Washington, D.C. 20004

The contact number for hand delivery is (202) 233-0122. Such documents may be delivered from 8:30 a.m. to 4:30 p.m., Monday through Friday (excluding federal holidays). Documents filed electronically may be filed at any time up to 11:59 p.m. Eastern Time on the day the document is required to be filed with the Board.

Thank you for your attention to these matters.

Sincerely,



Eurika Durr
Clerk of the Board

Enclosure

cc: Bradley Angel
Greenaction for Health and Environmental Justice
703 Market Street, Suite 501
San Francisco, CA 94103

Cindy King
Concerned Salt Lake City Area Residents Against Stericycle Incinerator
2963 South 2300 East
Salt Lake City, Utah 84109

Avi Garbow
General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 2310A
Washington, DC 20460

Steve Page
Office of Air Quality, Planning, and Standards
U.S. Environmental Protection Agency
109 T.W. Alexander Drive
Mail Code C404-04
Research Triangle Park, NC 27709

Lorie Schmidt
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 2344A
Washington, DC 20460

Stericycle Inc.
Corporate Headquarters
28161 N. Keith Drive
Lake Forest, IL 60045

Utah Department of Environmental Quality
Division of Air Quality
P.O. Box 144820
Salt Lake City, UT 84114

**Concerned Salt Lake City Area Residents Against Stericycle Incinerator
Greenaction for Health and Environmental Justice**

August 9, 2013

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, D.C. 20460-0001

RECEIVED
U.S. E.P.A.
2013 AUG 15 PM 2:49
ENVIR. APPEALS BOARD

RE: Appeal of the Title V Permit Issued by Utah Division of Air Quality to Stericycle Inc.

Dear Ms Durr,

We are writing to request expedited consideration by the Environmental Appeals Board of the Petition for Review filed four years ago by the Concerned Salt Lake City Area Residents Against the Stericycle Incinerator and Greenaction for Health and Environmental Justice, in response to the Title V permit improperly issued to Stericycle by the Utah Division of Air Quality.

EPA has improperly ignored our appeal for four years, repeatedly telling us the appeal was under review when in fact nothing has happened. It has been four years and Stericycle is within 60 days of filing for a Title V permit renewal. During this time you ignored our appeal and young families living within feet of the incineration facility have been polluted with illegal levels of dioxin, furans and other hazardous and criteria pollutants from a facility that has blatantly violated the law – all as USEPA has failed to act in a timely fashion on our appeal.

We will briefly demonstrate that we have spent substantial time and resources inquiring about our decision on our appeal and following various actions of Stericycle to get enforcement and compliance action from both the State of Utah's Division of Air Quality and EPA.

This appeal was filed and a letter of acknowledgement of receipt was received from the United States Environmental Protection Agency (EPA) Administrator dated March 31, 2009. Several more inquiries have been made to Mr. Stephen D. Page, Director, Office of Air Quality Planning and Standards, with the last correspondence dated May 23, 2013. All of the various correspondences claim that that "EPA will issue a response as soon as practicable."

In April 2013, Stericycle had fire coming out of the bypass stack (see enclosed photo). On May 23, 2013, the Division of Air Quality, State of Utah issued a Notice of Violation and Order to

Comply for extremely serious violations. It should also be noted that some of the violations were brought to Stericycle's attention as early as 2008 in a warning letter from the Division of Air Quality State of Utah. On July 3, we were informed by the Director of DAQ that a criminal investigation of Stericycle by state and federal authorities was underway.

On July 25, 2013 we received confirmation that the Division of Air Quality State of Utah does not have to have Startup, Shut down and Malfunctions (SSM) Plan as part of Stericycle's Title V permit but only "procedures posted at the facility." Therefore, this is not enforceable by the Title V permit, even though some of the issues brought up in the recent Notice of Violation might be considered additional violations of a SSM plan.

It is a sad situation when EPA ignores a properly submitted and legitimate appeal of a permit improperly issued to a polluter who then goes on to repeatedly fail tests, and according to the State of Utah has engaged in submitting several false reports and manipulated tests. Our appeal should be granted and this polluter must be shut down.

Therefore we are requesting an expedited decision on our March 2009 appeal.

Respectfully submitted,



Bradley Angel
Greenaction for Health and Environmental Justice
703 Market Street, Suite 501, San Francisco, CA 94103



Cindy King
Concerned Salt Lake City Area Residents Against Stericycle Incinerator
2963 South 2300 East, Salt Lake City, Utah 84109

Exhibit 2

INTERNET ARCHIVE
Wayback Machine

http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf Go

12 captures
7 Jul 07 - 13 Oct 13

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Environmental Appeals Board

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Environmental Appeals Board

ATTENTION: In the event of a government shutdown, the Environmental Appeals Board will close. The Board will reopen when funding is restored. **Parties need not file extension motions in advance of the potential shutdown.** The Board will address extension motions as appropriate when the shutdown has ended and will consider any motion filed commensurate with the circumstances presented. Additionally, all filings submitted to the Board during a government shutdown will be processed when the Board reopens.

Welcome to the U.S. Environmental Protection Agency's Environmental Appeals Board (EAB) Homepage. The Appeals Board is the final Agency decisionmaker on administrative appeals under all major environmental statutes that the Agency administers. It is an impartial body independent of all Agency components outside the immediate Office of the Administrator. The Board typically sits in panels of three judges and makes decisions by majority vote. Currently, eight experienced attorneys serve as counsel to the Board.

The Board has issued [A Citizens' Guide to EPA's Environmental Appeals Board](#), a plain language guide for members of the public participating in matters before the Board.

*** NOTICES ***

ATTENTION ELECTRONIC FILERS: On August 12, 2013, the Board migrated to a new EAB eFiling system. Click [here](#) for more information and registration instructions. The Board has revised its Standing Orders governing electronic filing to reflect the Board's migration to the new EAB eFiling System. These revised orders are available on the [Standing Orders](#) section of the Board's website.

STANDING ORDER GOVERNING NSR/PSD APPEALS: On March 27, 2013, the Board revised its Standing Order applicable to all Clean Air Act New Source Review/PSD permit appeals. This standing order is available on the [Standing Orders](#) section of the Board's Web site.

REVISED RULE ISSUED (40 CFR 124.19): Effective March 26, 2013, EPA revised its rule governing permit appeals (40 CFR 124.19). For more information, see the [Regulations Governing Appeals](#) page.

NEW MAILING AND HAND-DELIVERY ADDRESS: As of November 28, 2012, the EAB has moved. Click [here](#) for the Board's [Mailing and Hand-Delivery addresses](#).



Exhibit 3

This is Google's cache of <http://www.epa.gov/eab/>. It is a snapshot of the page as it appeared on Oct 7, 2013 22:40:07 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)
 Tip: To quickly find your search term on this page, press **Ctrl+F** or **⌘-F** (Mac) and use the find bar.

[Text-only version](#)



http://webcache.googleusercontent.com/search?

q=cache:2v5q5657zZYJ:www.epa.gov/eab/+&cd=1&hl=en&ct=clnk&gl=us

Last updated on 10/17/2013

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Environmental Appeals Board

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