

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

In re:

Stericycle, Inc.

Permit: Utah Title V No. 1100055002

Appeal No. CAA 13-01

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ENVIR. APPEALS BOARD

**MOTION TO INTERVENE OR, IN THE  
ALTERNATIVE, TO PARTICIPATE AS AN *AMICUS* OF THE BOARD**

Petitioners, Greenaction for Health and Environmental Justice and the Concerned Salt Lake City Area Residents Against the Stericycle Incinerator, are attempting to “appeal” a “Title V Permit Issued by Utah Division of Air Quality to Stericycle Inc.” *See* Appeal of Greenaction for Health and Environmental Justice and Concerned Salt Lake City Area Residents Against Stericycle Incinerator (filed Aug. 15, 2013). Stericycle, the permittee, respectfully seeks to intervene in the appeal or, in the alternative, for leave to participate as an *amicus* of the Board.

**BACKGROUND**

Stericycle, Inc. operates a medical waste incinerator in North Salt Lake, Utah. That facility is subject to requirements of Title V of the Clean Air Act—that is, Stericycle is required to obtain a Title V operating permitting.

On February 19, 2009, the Utah Department of Environmental Quality, Division of Air Quality, renewed Stericycle’s Title V operating permit, Permit Number 1100055002. The Utah Division of Air Quality did so under an EPA-authorized permitting program established under 40 C.F.R. part 70. *See* 40 C.F.R. § 70, App’x A (“Utah Department of Environmental Quality—Division of Air Quality: submitted on April 14, 1994; effective on July 10, 1995.”). Thus,

Stericycle's operating permit was not issued by the EPA under a federal permitting program established under 40 C.F.R. part 71; it was issued by a validly authorized state program.

In March 2009, the Petitioners apparently filed with the Administrator of EPA a petition to object to the Title V permit that had been issued by the Utah Division of Air Quality. Such a petition, if timely filed, would have been authorized by 40 C.F.R. § 70.8(d).

According to Petitioners, the EPA Administrator has not acted upon their petition for objection. Dissatisfied, Petitioners have now filed with the EAB an "appeal" of the "Title V Permit Issued by the Utah Division of Air Quality." *See* Appeal of Greenaction for Health and Environmental Justice and Concerned Salt Lake City Area Residents Against Stericycle Incinerator (filed Aug. 15, 2013). The appeal asks the Board to "expedite consideration" of the "petition for review" filed with the EPA Administrator back in March 2009. *See id.* Petitioners did not serve Stericycle with a copy of their notice of appeal.<sup>1</sup>

### ARGUMENT

As Stericycle explains in its separately filed Motion to Dismiss, no regulation authorizes the Environmental Appeals Board to hear this appeal. Ironically, though, because no provision authorizes this appeal, no provision sets forth Stericycle's right to intervene or otherwise participate in this appeal as an *amicus* to the Board. Regardless, basic notions of due process mandate that Stericycle be permitted to intervene or otherwise participate as an *amicus*.

Not surprisingly, where the Board is authorized to hear an appeal, it has allowed interested parties to intervene or otherwise participate as an *amicus* of the Board—particularly a

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<sup>1</sup> Counsel for Stericycle attempted to contact Greenaction for Health and Environmental Justice to obtain the Petitioners' views on the underlying motion; counsel could not find contact information for Concerned Salt Lake City Area Residents Against Stericycle Incinerator. Counsel did not receive a response from Greenaction before Stericycle was required to file this motion but anticipate that Petitioners will oppose this motion.

permittee like Stericycle. For example, under the Consolidate Rules of Practice (CROP), which govern civil enforcement proceedings, “[a]ny person desiring to become a party to a proceeding may move for leave to intervene.” 40 C.F.R. § 22.11(a). Similarly, under Part 124, which governs PSD and other New Source Review permitting, the Board has exercised its discretion “to allow intervention and/or non-party briefing at early stages of an appeal, typically allowing permittees not already a party to the proceeding to participate as intervenors, and in certain circumstances granting non-parties leave to participate as amicus.” Environmental Appeals Board, *Practice Manual* 48 n.50 (Mar. 26, 2013); *see also* 40 C.F.R. § 124.19(e) (allowing non-party participation).

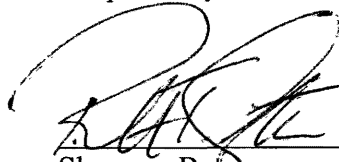
The Board should exercise similar discretion here. Stericycle is the permittee and should be allowed to be heard on Petitioners’ appeal, which questions the validity of Stericycle’s permit.

### CONCLUSION

For the foregoing reasons, the Environmental Appeals Board should grant Stericycle’s Motion to Intervene or, in the Alternative, for Leave to Participate as an *Amicus*.

Dated: October 15, 2013

Respectfully submitted,



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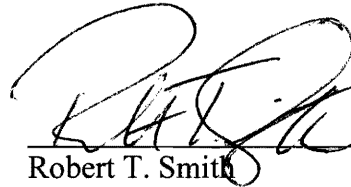
## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Stericycle's Motion to Intervene or, in the Alternative, for Leave to Participate as an *Amicus*, Appeal No. CAA 13-01, were served by United States First Class Mail on the following persons, this 15<sup>th</sup> day of October, 2013:

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