

**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

Civil Action No. 1:21-cv-00012-JNP

United States of America,

Plaintiff

v.

Stericycle, Inc.,

Defendant.

CONSENT DECREE

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WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”) has filed a Complaint concurrently with the lodging of this Consent Decree, pursuant to Section 113(b) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(b). The Complaint alleges that Defendant, Stericycle, Inc. (“Stericycle”) violated regulations set forth in 40 C.F.R. Part 60, Subpart Ce, promulgated by EPA pursuant to Title I of the CAA, 42 U.S.C. §§ 7411 and 7429; Section 129(f)(3) of the CAA, 42 U.S.C. § 7429(f)(3); and requirements of an operating permit issued pursuant to Title V of the CAA, 42 U.S.C. § 7661.

WHEREAS, the Complaint alleges that Defendant violated the above-listed federal environmental statutes and regulations and operating permit requirements at Stericycle’s hospital, medical, and infectious waste incinerator located at 90 North 1100 West, North Salt Lake, Utah (the “Facility”). The Facility is designed to treat non-hazardous medical waste and other approved non-medical waste.

WHEREAS, the Complaint specifically alleges that between September 14, 2012, and May 6, 2013, Defendant exceeded emission limits for nitrogen oxides (“NOx”) at the Facility, in violation of regulations set forth in 40 C.F.R. Part 60, Subpart Ce, as incorporated into the State of Utah’s plan for hospital, medical, and infectious waste incinerators, Utah Admin. Code r.307-222 (the “Utah HMIWI Plan”); and the Facility’s operating permit issued pursuant to Title V of the CAA. The Complaint further alleges Defendant failed to conduct required performance tests, submit data from performance tests, report its use of the Facility’s bypass stack, and accurately report the Facility’s maximum charge rates, in violation of the Facility’s operating permit issued pursuant to Title V of the CAA and applicable regulations set forth in 40 C.F.R. Part 60, Subpart Ce, as incorporated into the Utah HMIWI Plan.

WHEREAS, on or around May 6, 2013, Defendant began operating selective non-catalytic reduction technology at the Facility to reduce emissions of NOx.

WHEREAS, pursuant to an administrative settlement with the State of Utah dated November 25, 2014, Defendant agreed to relocate the Facility's operations and to permanently cease incineration operations at the Facility within three years of obtaining all necessary permits and approvals for the relocated facility, if applicable.

WHEREAS, Defendant does not admit any of the allegations of the Complaint or any liability to the United States arising out of the allegations in the Complaint.

WHEREAS, The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I (Jurisdiction and Venue), with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b). Venue is proper in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in the Complaint are alleged to have occurred in, and Defendant conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree and any such action and over Defendant and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

3. Notice of commencement of this action has been given to the State of Utah, specifically the State of Utah Department of Environmental Quality, Division of Air Quality by the United States.

II. APPLICABILITY

4. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Defendant and any successors, assigns, or other entities or persons otherwise bound by law.

5. No transfer of ownership or operation of the Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Decree are implemented. At least 30 Days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA Region 8, the United States Attorney for the District of Utah, and the United States Department of Justice, in accordance with Section XIII (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

6. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

7. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

8. Terms used in this Consent decree that are defined in the Act or in regulations promulgated pursuant to the Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

“Complaint” shall mean the complaint filed by the United States in this action;

“Consent Decree” or “Decree” shall mean this Decree;

“Day” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day;

“Defendant(s)” shall mean Stericycle, Inc.;

“EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

“Effective Date” shall have the definition provided in Section XIV.

“Facility” shall mean Defendant’s hospital, medical, and infectious waste incinerator located in Davis County, Utah.

“Paragraph” shall mean a portion of this Decree identified by an arabic numeral;

“Parties” shall mean the United States and Defendant(s);

“Section” shall mean a portion of this Decree identified by a roman numeral;

“United States” shall mean the United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

9. Within 30 Days after the Effective Date, Defendant shall pay the sum of \$600,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging.

10. Defendant shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account, in accordance with instructions provided to Defendant by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the District of Utah after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Defendant shall use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to Kurt Rogers at kurt.rogers@stericycle.com with a copy to Karl Karg at Karl.Karg@lw.com. Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States and EPA in accordance with Section XIII (Notices).

At the time of payment, Defendant shall send notice that payment has been made: (i) to EPA via email at cinwd_acctsreceivable@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or regular mail in accordance with Section XIII (Notices); and (iii) to EPA in accordance with Section XIII (Notices). Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Stericycle, Inc.* and shall reference the civil action number, CDCS Number and DOJ case number 90-5-2-1-12057.

Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section VII (Stipulated Penalties) in calculating its federal income tax.

V. COMPLIANCE REQUIREMENTS

11. Defendant shall comply with the following applicable laws and requirements with respect to the Facility: the regulations set forth in 40 C.F.R. Part 60, Subpart Ce; Section 129(f)(3) of the CAA, 42 U.S.C. § 7429(f)(3); and the requirements of its operating permit issued pursuant to Title V of the CAA, 42 U.S.C. § 7661.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

12. Defendant shall implement a Supplemental Environmental Project (“SEP”) to replace approximately 15–20 high-emitting school buses in the North Salt Lake, Utah area as described in the appendix to this Decree (“North Salt Lake Clean Diesel Project”). The total cost of the SEP shall be at least \$2,500,000. Defendant may recoup costs in excess of \$2,000,000 from the participating school district as a cost share. The SEP will reduce emissions of NO_x, sulfur dioxides, and particulate matter in the area impacted by the Facility’s alleged excess NO_x emissions.

13. Defendant is responsible for the satisfactory completion of the SEP in accordance with the requirements of this Decree. Defendant may purchase the replacement school buses directly or Defendant may use contractors or consultants in planning and implementing the SEP, including contracting with a school district to purchase the replacement school buses.

14. With regard to the SEP, Defendant certifies the truth and accuracy of each of the following:

a. All cost information provided to EPA in connection with EPA’s approval of the SEP is complete and accurate and that Defendant in good faith estimates that the cost to implement the SEP, exclusive of administrative expenses and legal fees, is at least \$2,000,000;

b. As of the date of executing this Decree, Defendant is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. The SEP is not a project that Defendant was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

d. Defendant has not received and will not receive credit for the SEP in any other enforcement action;

e. Other than the permissible cost share referenced in Paragraph 12; Defendant will not receive any reimbursement for any portion of the SEP from any other person; and

f. Defendant certifies under penalty of law that it would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction SEP, if the United States were precluded by law from accepting a diesel emissions reduction SEP.

15. By July 31 and January 31 of each year after the Effective Date, until completion of the SEP and submission of the SEP Completion Report in accordance with Paragraph 16, Defendant shall submit a status report that shall include a discussion of Defendant's progress in satisfying its obligations in connection with the Salt Lake Clean Diesel Project as described in this Section and Appendix A. The status report shall include, at a minimum, a narrative description of activities undertaken and a summary of costs incurred since the previous report.

16. Defendant must submit a SEP completion report to the addresses listed in Section XIII (Notices) no later than 90 days following SEP completion pursuant to Paragraph 22. The SEP completion report must contain, at minimum, the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any problems encountered in completing the SEP and the solutions thereto;
- c. An itemized list of all eligible SEP costs expended;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Decree;
- e. The information required in Appendix Paragraph 9 for any diesel engine permanently destroyed in accordance with Appendix Paragraph 8; and
- f. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

17. EPA may, in its sole discretion, require information in addition to that described in the Paragraph 16, in order to evaluate Defendant's completion report.

18. After receiving the SEP completion report, the United States shall notify Defendant whether Defendant has satisfactorily completed the SEP. If Defendant has not completed the SEP in accordance with this Consent Decree, stipulated penalties may be assessed under Section VII.

19. Each report submitted by Defendant under this Section shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

20. Any public statement, oral or written, in print, film, or other media, made by Defendant making reference to the SEP under this Decree shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action, United States v. Stericycle, Inc., taken on behalf of the U.S. Environmental Protection Agency under the Clean Air Act.”

21. For federal income tax purposes, Defendant agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

22. Completion Date. Defendant shall complete the North Salt Lake Clean Diesel Project within three years of the Effective Date of the Decree, except that Defendant may submit a request to the EPA for an extension of time to complete the Project.

VII. STIPULATED PENALTIES

23. Defendant shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section VIII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

a. If Defendant fails to pay the civil penalty required to be paid under Section IV (Civil Penalty) when due, Defendant shall pay a stipulated penalty of \$5,000 per Day for each Day that the payment is late.

b. If Defendant fails to satisfactorily complete the SEP as required by Section VI (Supplemental Environmental Project) and the Appendix, Defendant shall pay

a stipulated penalty of \$2,250,000, less \$120,000 per school bus replaced pursuant to Paragraph 12 of this Decree and the Appendix.

c. If Defendant fails to comply with the deadlines in Section VI (Supplemental Environmental Project) of this Consent Decree and the Appendix for implementing the SEP, Defendant shall pay stipulated penalties for each failure to meet an applicable deadline, as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$750	1st through 14th Day
\$1,250	15th through 30th Day
\$2,000	31st Day and beyond

d. If Defendant fails to submit a SEP status report as required by Paragraph 15 or the SEP completion report as required by Paragraph 16, Defendant shall pay stipulated penalties, as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$300	1st through 30th day
\$1,000	31st day and beyond

24. Except as provided in subparagraph 23(b), stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

25. Defendant shall pay any stipulated penalty within 30 Days of receiving the United States' written demand.

26. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

27. Stipulated penalties shall continue to accrue as provided in Paragraph 24, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

28. Defendant shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 10, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

29. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in

28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

30. The payment of penalties and interest, if any, shall not alter in any way Defendant's obligation to complete the performance of the requirements of this Consent Decree.

31. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XI (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for Defendant's violation of this Decree or applicable law, including but not limited to an action against Defendant for statutory penalties, additional injunctive relief, mitigation or offset measures, or contempt. However, the amount of any statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

VIII. FORCE MAJEURE

32. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Consent Decree.

33. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice orally or by electronic or facsimile transmission to EPA as provided in Section XIII (Notices) within 72 hours of when Defendant first knew that the event might cause a delay. Within seven days thereafter, Defendant shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known.

34. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the

obligations affected by the force majeure event. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

35. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

36. If Defendant elects to invoke the dispute resolution procedures set forth in Section IX (Dispute Resolution), it shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 32 and 33. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.

IX. DISPUTE RESOLUTION

37. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

38. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within seven Days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

39. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in Paragraph 38, by serving on the United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

40. The United States shall serve its Statement of Position within 45 Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with Paragraph 41.

41. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIII (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 30 Days of receipt of the

United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

42. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

43. Standard of Review.

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 39 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 39, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better further the objectives of the Consent Decree.

44. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 27. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

X. INFORMATION COLLECTION AND RETENTION

45. Until five years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

46. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Defendant shall deliver any such documents, records, or other information to EPA. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege

recognized by federal law. If Defendant asserts such a privilege, it shall provide the following:

(a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendant. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

47. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2.

48. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

49. This Consent Decree resolves the civil claims of the United States, and the civil liability of Defendant, for the violations alleged in the Complaint filed in this action through the date of lodging.

50. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal laws, regulations, or permit conditions. The United States

further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's Facility, whether related to the violations addressed in this Consent Decree or otherwise.

51. Except as provided in Paragraph 52, below, Defendant reserves all legal and equitable defenses and makes no admission regarding the allegations set forth in the Complaint and the facts and circumstances described in this Consent Decree.

52. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the Facility or Defendant's violations, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 49.

53. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Act or with any other provisions of federal, State, or local laws, regulations, or permits.

54. This Consent Decree does not limit or affect the rights of Defendant or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

55. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XII. COSTS

56. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XIII. NOTICES

57. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made electronically, unless otherwise requested, and addressed as follows:

As to the United States by email: eesdcopy.enrd@usdoj.gov
Re: # 90-5-2-1-12057

As to the United States by mail: EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: # 90-5-2-1-12057

As to EPA:

Director, Air Enforcement Division
Office of Civil Enforcement
USEPA Headquarters, MC 2242A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Director, Air & Toxics Enforcement Branch
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202

As to Defendant:

Stericycle, Inc.
Kurt M. Rogers, Esq.
Executive Vice President & General Counsel
2355 Waukegan Road
Bannockburn, IL 60015

Karl A. Karg, Esq.
Latham & Watkins, LLP
330 N. Wabash
Suite 2800
Chicago, IL 60611

58. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

59. Notices submitted pursuant to this Section shall be deemed submitted upon electronic transmission or mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing. An email is presumed to have been received on the day it is sent. With the exception of notices sent pursuant to Section VIII (Force Majeure), if the date for submission of a report, study, notification, or other communication falls on a Saturday, Sunday or federal holiday, the report, study, notification, or other communication will be deemed timely if it is submitted the next Business Day.

XIV. EFFECTIVE DATE

60. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XV. RETENTION OF JURISDICTION

61. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections IX (Dispute Resolution) and XVI (Modification), or effectuating or enforcing compliance with the terms of this Decree.

XVI. MODIFICATION

62. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

63. Any disputes concerning modification of this Decree shall be resolved pursuant to Section IX (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 43, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVII. TERMINATION

64. After Defendant has satisfactorily completed performance of its SEP obligations under Section VI (Supplemental Environmental Project) and the appendix to this Decree and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree,

Defendant may serve upon the United States a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

65. Following receipt by the United States of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

66. If the United States does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section IX. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination until 60 days after service of its Request for Termination.

XVIII. PUBLIC PARTICIPATION

67. This Consent Decree will be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Decree disclose facts or considerations indicating that the Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Decree without further notice and agrees not to withdraw from or oppose entry of this Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

XIX. SIGNATORIES/SERVICE

68. Each undersigned representatives of Defendant and the Environment and Natural Resources Division of the Department of Justice certify that he or she is fully authorized to enter

into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

69. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Defendant need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XX. INTEGRATION/HEADINGS

70. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XXI. FINAL JUDGMENT

71. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States and Defendant.

XXII. APPENDIX

72. The following Appendix is attached to and part of this Consent Decree:
Appendix, "Supplemental Environmental Project: North Salt Lake Clean Diesel Project"

Dated and entered this __ day of _____, 2021.

UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States v. Stericycle, Inc.

FOR THE UNITED STATES OF AMERICA:

Date

Nathaniel Douglas
NATHANIEL DOUGLAS
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

1/28/21
Date

James D. Freeman
JAMES D. FREEMAN
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Denver, CO 80202

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States v. Stericycle, Inc.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: 1/27/21

DEBRA THOMAS Digitally signed by DEBRA THOMAS
Date: 2021.01.27 10:21:21 -07'00'

DEBRA H. THOMAS
Acting Regional Administrator
U.S. Environmental Protection Agency, Region 8
Denver, CO 80202

Date: _____

Schefski, Kenneth Digitally signed by Schefski, Kenneth
Date: 2021.01.21 14:36:04 -07'00'

KENNETH C. SCHEFSKI
Regional Counsel
U.S. Environmental Protection Agency, Region 8
Denver, CO 80202

Date: 1/21/21

SUZANNE BOHAN Digitally signed by SUZANNE BOHAN
Date: 2021.01.21 11:57:26 -07'00'

SUZANNE J. BOHAN
Director
Enforcement and Compliance
Assurance Division
U.S. Environmental Protection Agency, Region 8
Denver, CO 80202

Date: 1/28/21

Rosemarie Kelley Digitally signed by Rosemarie Kelley
Date: 2021.01.28 11:58:02 -05'00'

ROSEMARIE A. KELLEY
Director, Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Washington, DC 20004

THE UNDERSIGNED PARTY enters into this Consent Decree in this action captioned United States v. Stericycle, Inc.

FOR STERICYCLE, INC.:

Date: 12/17/20

A handwritten signature in black ink, appearing to read "K.M. Rogers", is written over a horizontal line.

Kurt M. Rogers
Executive Vice President and General Counsel
Stericycle, Inc.

APPENDIX

**NORTH SALT LAKE CLEAN DIESEL
SUPPLEMENTAL ENVIRONMENTAL PROJECT**

1. In accordance with Section VI of this Consent Decree, Defendant shall implement the North Salt Lake Clean Diesel Project to replace 15–20 qualifying school buses in the North Salt Lake, Utah area. The Parties expect this Project will reduce emissions of NO_x, sulfur dioxides, and particulate matter in the area impacted by the Facility’s alleged excess NO_x emissions.

2. For purposes of this Appendix, a “qualifying school bus” shall mean a vehicle:

a. That is 2006 engine model year or older;

b. Used for the purpose of transporting 31 or more preprimary, primary, or secondary students to schools or homes;

c. That has accumulated at least 10,000 miles during the 2017 or 2018 school year or has been in use for at least 3 days per week during the current school year, or the previous school year if the replacement occurs outside of the current school year;

d. Operates in Davis or Salt Lake County, Utah;

e. Notwithstanding the requirements of Paragraph 2(b), above, and as an exception thereto, Defendant may, at its discretion, replace as many as 5 buses with replacement buses serving less than 31 students where such buses provide transportation to students receiving special education services.

3. Within three years of the Effective Date of the Decree, Defendant shall purchase approximately 15–20 school buses for a school district in Davis or Salt Lake County, Utah, (the “School District”) to replace 15–20 qualifying school buses. Defendant shall replace an approximately equal number of qualifying school buses each year.

4. The replacement school buses may be diesel or alternate fueled (e.g., CNG, propane, hybrid, or electric) vehicles. The total cost of the SEP shall be at least \$2,500,000. Defendant may recoup costs in excess of \$2,000,000 from the participating school district as a cost share.

5. The replacement school buses shall be engine model year 2016 or newer powered by a diesel or alternative fueled engine (including hybrids) certified to EPA emission standards, with an engine certified to meet CARB's Optional Low-NOx Standards, or powered by a zero tailpipe emission power source.

6. Defendant shall ensure that the School District accepting replacement school buses provides Defendant a written certification that:

- a. The qualifying school bus satisfies the criteria of Paragraph 2 of this Appendix;
- b. The qualifying school bus was intended to remain in use for no less than 5 years from the date projected for replacement;
- c. The School District will reasonably maintain the replacement school bus.

7. The selection of the type of replacement school bus shall be the choice of the School District, provided the selection complies with this Appendix.

8. Any diesel engine in a qualifying school bus that is replaced through this Project shall be permanently destroyed. For purposes of this Appendix, "permanently destroyed" shall mean to destroy a vehicle or engine using one of the following methods:

- a. (i) Remove (and dispose of appropriately) the engine oil from the crankcase, replace the oil with a 40 percent solution of sodium silicate ($\text{SiO}_2/\text{Na}_2\text{O}$ with a weight ratio of 3.0 or greater); (ii) Run the engine at a low speed (approximately 2,000

rpm) until the engine stops; (iii) After allowing the engine to cool for an hour, try to start the engine; if the vehicle or engine contains a battery and that battery is charged and the engine will not operate at idle, the procedure is complete; (iv) If the engine starts, run the engine at a low speed (approximately 2,000 rpm) until the engine stops and then try to start the engine again after allowing the engine to cool for an hour. Repeat step (iv) in this process until the engine will not operate; (v) Remove and dispose of any remaining fuel in accordance with applicable law.

b. Remove (and dispose of appropriately) all oil and fuel from the device. Using a drill bit of no less than 3/8 inch or a cutting torch: (i) drill or cut a hole through the lower crankcase of the engine so that it no longer retains oil; (ii) drill or cut a hole through the cylinder head into the combustion chamber; and (iii) drill or cut a hole through the cylinder or cylinder block through the cylinder liner.

c. Compact or crush the engine and all of its parts or components to render them useless.

9. In addition to the requirements of Consent Decree Paragraph 16, Defendant shall provide the following in the SEP completion report for any diesel engine permanently destroyed in accordance with Paragraph 8 of this Appendix:

a. The method in Paragraph 8 of this Appendix used to permanently destroy the engine;

b. Photographs demonstrating the engine was permanently destroyed using one of the methods in Paragraph 8 of this Appendix;

c. The date on which the engine was permanently destroyed;

d. The names and titles of the School District officers, employees, or agents who permanently destroyed the engine; and

e. The names of any third parties that permanently destroyed the engine.