

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

STATE OF IOWA, ex rel., IOWA)
DEPARTMENT OF NATURAL)
RESOURCES,)
))
Plaintiff,)
))
vs.)
))
AARON ROCHESTER, THE NAME)
MINISTRIES, d/b/a RECYCLETRONICS –)
DISABLED VETERANS AT WORK, and)
SIOUXLAND P.C. AND ELECTRONIC)
RECYCLING, L.L.C., d/b/a)
RECYCLETRONICS – DISABLED)
VETERANS AT WORK,)
))
Defendants.)

NO. EQCV179074

PETITION IN EQUITY

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources (“DNR”) and for its claims against Defendants Aaron Rochester, The Name Ministries, d/b/a Recycletronics – Disabled Veterans at Work (“The Name Ministries”), and Siouxland P.C. and Electronic Recycling, L.L.C. (“Siouxland P.C.”), d/b/a Recycletronics – Disabled Veterans at Work (hereinafter collectively referred to as “Recycletronics”),¹ states as follows:

INTRODUCTION

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant Recycletronics, arising from violations of Iowa’s solid waste and water quality laws at several different locations within the City of Sioux City in Woodbury County, Iowa. The violations involve improper open dumping of Cathode Ray Tubes and other electronic waste and the failure to comply with the repayment obligations of a DNR Solid Waste

¹ References to Recycletronics include Rochester in his capacity as President of Recycletronics.

Alternatives Program (“SWAP”) loan issued to Recycletronics to purchase equipment for the disassembly, processing and transportation of certain recycled materials.

PARTIES

2. The State of Iowa is a sovereign state of the United States of America and brings this action on behalf of the DNR, a duly constituted agency of the State of Iowa pursuant to Iowa Code § 455A.2.

3. Defendant Aaron Rochester is a resident of Woodbury County, Iowa. Rochester was the President and Agent of Defendant The Name Ministries, President and Agent of Defendant Siouxland P.C., and the President of Recycletronics – Disabled Veterans at Work.

4. Defendant The Name Ministries, d/b/a Recycletronics – Disabled Veterans at Work, was an Iowa non-profit organization located at 1219 5th Street, Sioux City, Woodbury County, Iowa 51101. Defendant The Name Ministries was administratively dissolved by the Secretary of State on August 14, 2013.

5. Defendant Siouxland P.C. Electronic Recycling, L.L.C., was an Iowa corporation located at 3313 Northbrook Drive, Sioux City, Woodbury County, Iowa. Defendant Siouxland P.C. was administratively dissolved by the Secretary of State on August 14, 2017.

6. Recycletronics – Disabled Veterans at Work is an Iowa company that used to be located at 3313 Northbrook Drive, Sioux City, Woodbury County, Iowa, but is now located at 1220 Steuben Street, Sioux City, Woodbury County, Iowa.

DEFINITIONS

7. “Broken CRT” means “CRT that has had the glass broken or the vacuum released. “Broken CRT” does not include a CRT that is intact but not functional.” 567 Iowa Admin. Code 122.3.

8. “Capacitor” means “a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid. For the purposes of the chapter, ‘capacitor’ does not include dry-cell capacitors.” *Id.*

9. “Cathode ray tube” and its abbreviation “CRT” means “a vacuum tube composed primarily of leaded glass and used to convert an electrical signal into a visual image.” *Id.*

10. “CRT collection facility” means “a site where ongoing CRT collection is the only CRT recycling activity performed.” *Id.*

11. “CRT device” means “any device that contains a CRT. Examples of a CRT device include, but are not limited to, computer monitors, televisions, some cash registers, and oscilloscopes.” *Id.*

12. “CRT glass” means “any glass generated from CRTs.” *Id.*

13. “CRT Processing” means “any activity that processes discarded CRTs into raw materials.” *Id.*

14. “CRT recycling” means “any process by which discarded CRTs or electronic materials that would otherwise become waste are collected, processed and returned to use in the form of raw materials or products. CRT recycling includes, but is not limited to, CRT demanufacturing, CRT processing, and CRT refurbishing.” *Id.*

15. “CRT recycling facility” means “a site where CRT recycling takes place.” *Id.*

16. “Discarded” means “no longer to be used for the original intended purpose and means the letting go or throwing away of materials that have become useless or superfluous though often not intrinsically valueless. CRTs that are returned to the original owner are not ‘discarded.’” *Id.*

17. “Discarded CRT” means “a cathode ray tube or CRT device that has been discarded.” *Id.*

18. “Hazardous condition” means “any situation involving the actual, imminent or probable release of a hazardous substance onto the land, into a water of the state, or into the atmosphere which, because of the quantity, strength or toxicity of the hazardous substance, its mobility in the environment and its persistence in the environment, creates an immediate or potential danger to the public health or safety, or to the environment.” *Id.*

19. “Mercury-containing components” means “devices, other than batteries, containing a regulated amount of mercury.” *Id.*

20. “PCB” or “PCBs” means “polychlorinated biphenyl, which is a chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees, or any combination of such substances.” *Id.*

21. “Solid waste” means “garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.” Iowa Code § 455B.301(23).

22. “[S]torm water discharge associated with industrial activity” means “the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.” 567 Iowa Admin. Code 60.2. The term “industrial activity” includes “facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards.” *Id.*

JURISDICTION

Solid Waste Regulations

23. The Environmental Protection Commission (EPC) is required to establish rules for the proper administration of Iowa Code chapter 455B, Division IV, Part 1, relative to the treatment and disposition of solid waste. Iowa Code § 455B.304(1). The EPC's rules implementing these provisions are contained in 567 Iowa Admin. Code 100-123.

24. Iowa law prohibits the dumping or depositing or permitting dumping or depositing of solid waste at any place other than a sanitary disposal project approved by the DNR. Iowa Code § 455B.307(1) and 567 Iowa Admin. Code 100.4.

25. 567 Iowa Admin. Code 122.10(5) provides that discarded CRTs and materials derived from discarded CRTs can be stored outside if the following conditions are met:

- a. The facility has a stormwater permit, if applicable.
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- c. Litter is contained within the storage area or unit.
- d. The discarded CRTs and materials derived from discarded CRTs are not broken CRTs or CRT glass

26. 567 Iowa Admin. Code 122.11(1) provides that all discarded CRTs coming into the CRT recycling facility shall be collected in a manner that complies with the following requirements:

- a. Collection activities for discarded CRTs shall occur in an area and through a process that minimizes the risk of hazardous conditions.
- b. Discarded CRTs shall be collected and contained in a manner that is structurally adequate to prevent breakage and spillage under normal operating conditions, and that is compatible with the contents.
- c. CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be collected in enclosed and separate containers from other discarded CRTs.

27. 567 Iowa Admin. Code 122.14(1) provides that CRT recycling facilities shall immediately clean up and contain any CRTs, CRT devices, and CRT glass that are unintentionally broken.

28. 567 Iowa Admin. Code 122.15(1) provides that CRT demanufacturers and CRT processors that manage mercury-containing components may be considered hazardous waste generators and must take precautions to prevent the release of mercury.

29. 567 Iowa Admin. Code 122.16 provides a number of requirements for the proper removal and disposal of PCB capacitors for CRT recycling facilities.

30. 567 Iowa Admin. Code 122.19(2) provides that Discarded CRTs and materials derived from discarded CRTs shall not be speculatively accumulated at a permitted CRT recycling facility without the permit holder obtaining and maintaining financial assurance for the additional CRTs in accordance with rule 567 Iowa Admin. Code 122.25. "Speculative accumulation" occurs when a facility cannot demonstrate that the amount of discarded CRTs and materials derived from discarded CRTs leaving the facility within a 12-month time period is greater than 75 percent, by weight or volume, of the discarded CRTs and materials derived from discarded CRTs received by the facility within a 12-month time period.

31. 567 Iowa Admin. Code 122.22 provides that A CRT recycling facility shall maintain a record of the number or weight of CRT devices received each calendar year and report this information to the department within 30 days of the end of that calendar year.

32. 567 Iowa Admin. Code 122.23(1)-(6) provides that All CRT recycling facilities shall maintain the following records, on a calendar-year basis, for three years:

- 1) The total aggregate weight and receipt date of each shipment of discarded CRTs received from businesses, institutions, CRT collection facilities,

short-term CRT collection events, and other permitted CRT recycling facilities.

- 2) The name, address and contact information for shipments reported in subrule 122.23(1).
- 3) The total aggregate weight and date of each shipment leaving the CRT recycling facility.
- 4) The name and address of the facility receiving a shipment that left the CRT recycling facility, contact information for the receiving facility and a description of the shipment contents including all applicable bills of lading.
- 5) The type of service the receiving facility will provide to the CRT recycling facility.
- 6) All hazardous waste manifests.

33. 567 Iowa Admin. Code 122.24 provides that A CRT recycling facility shall submit a written notice of intent to permanently close at least 60 days before closure, and such closure shall be in conformance with the closure plan pursuant to paragraph 122.11(1)(n).² Closure shall not be official until the DNR field office with jurisdiction over the facility has given written certification of the proper disposal of all solid waste, discarded CRTs, and materials derived from discarded CRTs at the site.

34. Pursuant to 567 Iowa Admin. Code 122.25(4), CRT recycling facilities shall have financial assurance coverage equal to one dollar per pound of CRTs determined to be speculatively accumulated in accordance with subrule 122.19(2).

35. The director of the DNR may issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1, or rules adopted pursuant to that part. Iowa Code § 455B.307(2).

² The closure plan requirement transferred from 567 Iowa Admin. Code 122.11(1)(n) to 567 Iowa Admin. Code 122.8(1)(n), but the Administrative Code has not been updated to reflect that change.

36. Any person who violates any provision of Iowa Code section 455B, Division IV, Part 1, or any order, permit, or rule issued thereunder shall be subject to a civil penalty not to exceed Five Thousand and no/100 Dollars (\$5,000.00) for each day of such violation. Iowa Code § 455B.307(3).

37. The Attorney General, at the request of the DNR, may institute any legal proceeding necessary in obtaining compliance with an order of the director or prosecuting any person for a violation of Iowa Code section 455B, Division IV, Part 1, or any order or rule issued under that part. Iowa Code § 455B.307(2).

Storm Water Discharge Regulations

38. The DNR is authorized to issue, modify, deny or revoke a general permit for storm water discharges required by Iowa Code chapters 455B, 459 or 459A. Iowa Code § 455B.103A(1).

39. The DNR is authorized to issue National Pollutant Discharge Elimination System (NPDES) permits including but not limited to storm water discharge permits issued pursuant to Iowa Code section 455B.103A. Iowa Code § 455B.197.

40. The dumping, depositing, or discharging of pollutants into any water of the state is prohibited, except adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the DNR. Iowa Code § 455B.186(1).

41. The EPC has authority to adopt rules necessary to implement Iowa Code chapters 455B, 459, and 459A, relating to permits, conditional permits, and general permits. Iowa Code § 455B.105(11)(a). Specifically, the EPC has authority to adopt rules for applications or permits related to the NPDES permits, described in Iowa Code section 455B.197. Iowa Code § 455B.105(11)(c). Implementing rules are contained in 567 IAC 60-69.

42. The director of the DNR is authorized to issue storm water discharge general permits for a class of facilities which could be described or conditioned by a single permit. Iowa Code § 455B.103A(1); 567 Iowa Admin. Code 64.4(2)(a)(1).

43. The DNR has adopted a general permit for Storm Water Discharge Associated with Industrial Activity. 567 Iowa Admin. Code 64.15(1). “Storm water discharge associated with industrial activity” includes discharges from salvage yards. NPDES General Permit No. 1, § VIII. (vi).

44. No person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director. 567 Iowa Admin. Code 64.3(1).

45. The enforcement provisions of Iowa Code chapter 455B, division III, part 1, of Iowa Code chapter 455B, apply to general permits for storm water discharge. Iowa Code § 455B.103A(5).

46. A person who violates any provision of part 1 of division III of Iowa Code chapter 455B or any permit, rule, standard, or order issued under part 1 of division III of chapter 455B shall be subject to a civil penalty not to exceed Five Thousand and no/100 Dollars (\$5,000.00) for each day of such violation. Iowa Code § 455B.191(2).

47. The Attorney General shall, at the request of the director with approval of the EPC, institute any legal proceedings, including an action for an injunction or a temporary injunction, necessary to enforce the penalty provisions of part 1 of division III of chapter 455B or any rules promulgated or any provision of any permit issued under part 1 of division III of chapter 455B. Iowa Code § 455B.191(5).

Solid Waste Alternatives Program

48. The Iowa State Treasurer maintains a groundwater protection fund that includes a solid waste account. Iowa Code § 455E.11(2)“a”.

49. The solid waste account is used to fund alternatives to landfills including the development and implementation of demonstration projects for landfill alternatives to solid waste disposal including recycling programs. Iowa Code § 455E.11(2)“a”(1)(f).

50. The DNR Landfill Alternatives Financial Assistance Programs operates with funds from the solid waste account with the goal “to reduce through implementation of solid waste management projects the amount of solid waste being generated and the amount of solid waste being landfilled.” 567 Iowa Admin. Code 209.1.

51. The programs are designed to meet this goal by providing “financial assistance to applicants implementing projects and programs leading to the diversion of solid waste from sanitary landfills.” 567 Iowa Admin. Code 209.2.

52. One financial assistance program managed by the DNR is the Solid Waste Alternatives Program (“SWAP”). The purpose of SWAP is to provide funding to local governments, public or private groups, individuals or businesses that have an interest in or have responsibility for solid waste management in order to “implement activities that support the practical and beneficial use of solid waste materials and for activities leading to a reduction in the reliance on sanitary landfills for disposal of solid waste.” 567 Iowa Admin. Code 209.15 and 209.15(1).

53. Funding under the SWAP program is provided through forgivable loans, zero interest loans, and low interest loans. 567 Iowa Admin. Code 209.15(3).

FACTS

54. Recycletronics collects payments from businesses and the public to properly recycle electronics including CRTs.

55. CRTs contain leaded glass that is regulated by the DNR, and other electronics accepted by Recycletronics can contain mercury or PCBs, which are also regulated by the DNR.

56. Recycletronics operated a permitted³ (CRT Permit #97-CRT-06-10-CRP) electronics recycling facility located at 1220 Steuben Street, Sioux City, Iowa 51105 (“Steuben Street Facility”), previously located at 3313 Northbrook Drive, Sioux City, Iowa 51105 (“Northbrook Drive Facility”).

57. On September 18, 2013, Aaron Rochester, as President and General Manager of Recycletronics, applied for, and was granted, a CRT Permit renewal from the DNR.

58. Recycletronics also conducts electronic recycling activities at a number of unpermitted locations in or around Sioux City, Iowa, including, but not limited to, the following:

- a. 3035 HWY 75 N., Sioux City, Iowa 51105 (“Feed Mill Facility”);
- b. 1801-03 4th Street, Sioux City, Iowa 51101 (“Scandinavian Building Facility”);
- c. 1313 11th Street, Sioux City, Iowa 51105 (“11th Street Facility”);
- d. 2301 G Street, South Sioux City, Nebraska 68776 (“G Street Facility”);
- e. 16998 160th Street, Akron, Iowa 51001 (“Akron Facility”); and
- f. West 2/3 of Southeast 1/4 Southwest 1/4, Unplatted 22-29-5/25 acres Section-Township-Range 22-29-9E, Parcel ID 220054789, South Sioux City, Nebraska 68776 (“Foundry Road Facility”).

Inspections of Recycletronics’ Facilities

Steuben Street Facility

59. On December 13, 2016, the DNR and the Environmental Protection Agency (“EPA”) conducted a joint, unannounced inspection of the Steuben Street Facility. On the same

³ Recycletronics’ CRT permit was revoked by the DNR on March 3, 2017. See ¶ 84 of the Petition.

day, the EPA also conducted inspections of several other facilities where Recycletronics' activities or materials was occurring or being stored.

60. During the December 13, 2016 inspection, the DNR observed that Recycletronics accumulated a substantial amount of electronic waste for recycling, but the company had failed to properly dispose of the electronic waste. The DNR observed the following:

- a. An estimated 300 one-cubic yard cardboard containers of broken lead funnel glass, broken unleaded panel glass, and electronics in the 12,000 square foot building;
- b. An estimated 96 one-cubic yard containers of broken lead funnel glass, broken unleaded panel glass and other electronics outside the loading dock, and none of the containers appeared to be labeled;
- c. An estimated 50-foot long pile (approximately 4 feet tall) of televisions and computer monitors west of the loading dock; and
- d. An estimated 100-foot long pile (approximately 3 feet tall) of non-flat screen televisions and computer monitors, crushed glass, and broken electronics.

61. During the inspection, Recycletronics personnel admitted to the DNR that the company did not have an inventory tracking system for the electronic waste. The DNR also determined that despite storing discarded CRTs and material processed from discarded CRTs outside, Recycletronics did not have a NPDES permit for the Steuben Street Facility.

62. During the inspection, Rochester admitted that he was unaware if Recycletronics found any mercury-containing components or PCB capacitors/components and there was no documentation of any storage/handling of such components at the facility. He also admitted that Recycletronics did not inspect the discarded CRTs for PCB capacitors/components.

63. During the December 13, 2016 inspection, Rochester admitted to the EPA that during a busy month, the Steuben Street Facility could generate 13-60, 1-cubic-yard cardboard boxes of broken, leaded funnel glass. The EPA requested documentation from Recycletronics

that the company was properly disposing of the CRTs and leaded glass. Recycletronics has not provided any documentation in response to the request.

64. In April 2017, the EPA repeated its request for documentation from Recycletronics that the company was properly disposing of the CRTs and leaded glass. Recycletronics has not provided any documentation in response to the request.

65. In April 2017, the EPA conducted lead testing of the glass stored at the Steuben Street Facility, and the results indicated that the lead content exceeded the EPA's regulatory limit.

Northbrook Drive Facility

66. In June 2015, the EPA conducted an inspection of the Northbrook Drive Facility, where Recycletronics was operating an electronics recycling facility at the time. During the inspection, the EPA observed 200, 1-cubic-yard cardboard containers of electronic waste, including CRTs, waiting to be processed, and 100, 1-cubic-yard cardboard containers of leaded glass in the warehouse on-site. The EPA requested documentation from Recycletronics that the company was properly disposing of the CRTs and leaded glass. Recycletronics responded that the computers had crashed and no records were available, but later produced one (1) receipt, dated July 2, 2014, documenting 13 boxes of leaded glass were disposed of properly.

67. In May 2016, the EPA conducted an inspection of the Northbrook Drive Facility and observed the following: 1-cubic-yard cardboard container of leaded glass; 24 containers of unprocessed electronic equipment outside; and 50 containers of unprocessed electronic equipment in the warehouse. The EPA requested documentation from Recycletronics that the company was properly disposing of the CRTs and leaded glass, and Recycletronics again responded that the computers had crashed and no records were available.

68. In approximately August 2016, Recycletronics moved its electronic waste recycling operation from the Northbrook Drive Facility to the Steuben Street Facility. The DNR inspected the Northbrook Drive Facility in late August 2016, and observed that all material, processed and unprocessed, had been removed from the facility.

69. Recycletronics has provided no additional documentation of proper disposal of electronic waste or CRTs despite numerous additional EPA requests for such documentation.

11th Street Facility

70. Rochester has admitted that the 11th Street Facility was in operation from 2013-2015.

71. Rochester has admitted that from the summer of 2015 through October 2015, he directed Recycletronics' employees to crush leaded and non-leaded glass together onsite with a skid loader and to transport the crushed glass to the G Street Facility, where it was spread out on a concrete pad.

G Street Facility

72. EPA soil and water testing conducted in August 2017 at the G Street Facility, where Recycletronics stored approximately 3,378,684 pounds of crushed leaded glass on a concrete pad, demonstrated the presence of lead in both the soil and water.

Akron Farm Facility

73. Rochester has stated that he used the 9,000 square-foot building at the Akron Farm Facility to store electronics and a "mixture of everything" since as early as 2013.

74. The EPA conducted an inspection of the Akron Farm Facility in April 2017. During the inspection, the EPA observed that 1-cubic-yard cardboard boxes were stacked approximately sixteen wide, forty-five long, and three high, and full of mostly broken glass but

some contained intact/broken CRTs. The EPA estimates that approximately 8,424,000 pounds of broken, leaded glass is stored at the Akron Farm Facility. During the inspection, the EPA conducted lead testing of the glass stored at the Akron Farm Facility, and the results indicated that the lead content exceeded the EPA's regulatory limit.

Feed Mill Facility

75. Rochester has stated that he used the Feed Mill Facility to store CRT glass beginning in 2012 or 2013.

76. The EPA conducted an inspection of the Feed Mill Facility in April 2017, and based upon its observations, estimates that approximately 2,199,600 pounds of broken, leaded glass is stored at the Feed Mill Facility. During the inspection, the EPA conducted lead testing of the glass stored at the facility, and the results indicated that the lead content exceeded the EPA's regulatory limit.

Scandinavian Building Facility

77. A representative of the owner of the Scandinavian Building Facility told the EPA that Rochester moved used, broken CRTs into the building beginning in 2012 or 2013.

78. The EPA conducted an inspection of the Scandinavian Building Facility in April 2017, and based upon its observations, estimates that approximately 496,780 pounds of broken and/or intact CRTs is stored at the facility. During the inspection, the EPA conducted lead testing of the CRTs stored at the facility, and the results indicated that the lead content exceeded the EPA's regulatory limit.

Foundry Road Facility

79. Representatives of the Foundry Road Facility told the EPA that Rochester brought cardboard boxes of glass to the site in October 2015.

80. The owner of the Foundry Road Facility directed his employees to dump the boxes on the ground, burn the contents, remove any metal, and leave the remaining contents on the ground.

81. The EPA estimates that approximately 1,170,987 pounds of broken, leaded glass is mixed in with the soil at the Foundry Road Facility.

Agency Actions

82. On January 17, 2017, the DNR issued a letter to Rochester, stating that Recycletronics' CRT Permit was suspended until the Steuben Street Facility came into compliance with all state and federal regulations. The letter also stated that Recycletronics must do the following: 1) cease accepting any electronics for recycling, but could still process electronics currently on site for proper disposal; 2) obtain an NPDES permit for the facility; 3) be in compliance with all federal regulations governing CRT handling and waste components; 4) store all CRTs in a building, shipping container, or enclosed vehicle that provides protection from the elements; and 5) maintain certain records for recycled CRT components.

83. An inspection conducted by the DNR at the Steuben Street Facility on March 2, 2017, demonstrated that Recycletronics had not fully complied with the requirements numbered 2), 4), and 5) in the January 17, 2017 letter.

84. On March 3, 2017, the DNR issued a letter to Rochester as a result of repeated noncompliance with Iowa laws governing CRT recycling, stating that Recycletronics' CRT permit was being revoked and that Recycletronics must initiate site closure pursuant to 567 Iowa Admin. Code 122.24. The letter notified Recycletronics that it may not accept any additional waste at the property. The letter also notified Recycletronics that it had 30 days to appeal the revocation; Recycletronics did not appeal the revocation.

85. On March 22, 2017, the EPA sent an email to the DNR and the Nebraska Department of Environmental Quality (“NE DEQ”), notifying the agencies of an upcoming EPA inspection of the Steuben Street Facility, Scandinavian Building Facility, G Street Facility, Foundry Road Facility, Akron Farm Facility, and the Feed Mill Facility, and allegations of improper CRT and leaded glass storage at the facilities.

86. On May 10, 2017, the DNR conducted a follow up inspection of the Steuben Street Facility, and observed that Recycletronics had failed to fully comply with the requirements numbered 2), 4) and 5) in the January 17, 2017 letter.

87. In June 2017, the DNR received evidence that Recycletronics accepted shipments of CRT glass as late as April 11, 2017.

88. On August 7, 2017, the DNR conducted a follow up inspection of the Steuben Street Facility, and observed that Recycletronics had failed to fully comply with the requirements numbered 2), 4) and 5) in the January 17, 2017 letter.

89. Recycletronics submitted CRT Device Recycling Facility Annual Activity Reports to the DNR from 2013-2016, falsely claiming that the company was annually shipping out over 75% of the discarded CRTs it received for proper disposal in order to avoid the DNR’s financial assurance requirements contained in 567 Iowa Admin. Code 122.19(2) and 122.25(4).

90. It is estimated that 12,368,380 pounds of discarded CRTs and other electronic waste has been speculatively accumulated at Recycletronics’ numerous facilities located in Sioux City and surrounding areas within Iowa from at least 2013 to the present, and it will cost, at a minimum, approximately \$1,500,000.00 to properly dispose of such waste.

91. On November 29, 2017, the EPA and Rochester, both individually and as owner of Souixland P.C., entered into a Consent Order and Final Decree (“Decree”), wherein Rochester

agreed to remove and properly dispose of all illegally disposed of material located at the following locations: Akron Farm Facility; G Street Facility; Scandinavian Building Facility; Steuben Street Facility; Feed Mill Facility; and the Foundry Road Facility. The Decree also requires that Rochester dispose of the material over a set period of time and must provide documentation of the proper disposal of said material.

VIOLATIONS

92. Recycletronics improperly disposed of solid waste when they dumped or deposited, or permitted the dumping or depositing, of electronic waste at numerous facilities located in Sioux City and surrounding areas within Iowa from at least September 18, 2013 to the present, in violation of Iowa Code section 455B.307(1) and 567 Iowa Admin. Code 100.4.

93. Recycletronics operated an electronics recycling facility at the Steuben Street Facility without a NPDES General Permit No. 1 from at least December 13, 2016 until March 3, 2017, in violation of 567 Iowa Admin. Code 64.3(1) and 122.10(5).

94. Recycletronics stored discarded CRTs and materials derived from discarded CRTs outdoors at the Steuben Street Facility from at least December 13, 2016 to the present, without complying with the DNR's rules for such storage, in violation of 567 Iowa Admin. Code 122.10(5).

95. Recycletronics failed to receive, manage, and store discarded CRTs and CRT material in a manner that minimizes the risk of a hazardous condition at the Steuben Street Facility from at least December 13, 2016 to the present, in violation of 567 Iowa Admin. Code 122.11(1) and 122.14(1).

96. Recycletronics failed to properly remove and dispose of mercury-containing or PCB components commonly found in the electronic waste processed at the Steuben Street

Facility from at least December 13, 2016 to the present, in violation of 567 Iowa Admin. Code 122.15(1) and 122.16.

97. Recycletronics speculatively accumulated discarded CRTs and material derived from CRTs and failed to maintain the proper financial assurance for the additional CRTs and CRT material at numerous facilities located in Sioux City and surrounding areas within Iowa from at least September 18, 2013 to the present, in violation of 567 Iowa Admin. Code 122.19(2) and 122.25(4).

98. Recycletronics failed to maintain proper records for the receipt, storage, handling, processing, and disposal of discarded CRTs and material derived from CRTs at numerous facilities located in Sioux City and surrounding areas within Iowa from at least September 18, 2013 to the present, in violation of 567 Iowa Admin. Code 122.22 and 122.23.

BREACH OF SWAP LOAN AGREEMENT

99. In April 2011, the DNR, on behalf of the DNR Solid Waste Alternatives Program (“SWAP”), entered into an agreement with Recycletronics to purchase equipment for the disassembly, processing and transportation of certain recyclable materials (“SWAP Agreement”). (Exhibit A).

100. The scope of work to be completed by Recycletronics pursuant to the SWAP Agreement included equipment purchases to expand the company’s capacity to receive and process electronic waste for recycling.

101. The SWAP Agreement provided for a \$20,000.00 forgivable loan and a \$89,500.00 zero-interest loan to be paid to Recycletronics.

102. William Graves, CFO of Recycletronics at the time, executed a promissory note personally obligating him to repay the entire sum of the loan amount according to the terms of

the SWAP Agreement, or in the event of default. (Exhibit A, p. 16).

103. In approximately September 2013, the DNR and Rochester entered into an agreement to amend the SWAP Agreement by deobligating \$3,943.62 of the original \$89,500.00 zero-interest loan (lowering loan amount to \$85,556.38) and changing the repayment terms.

104. Pursuant to the terms of the Amended SWAP Agreement, the DNR loaned \$105,556.38 (\$85,556.38 + \$20,000.00) to Recycletronics.

105. After Recycletronics had difficulty making payments in compliance with the amended repayment schedule, on May 5, 2014, the DNR and Rochester entered into a second agreement to amend the SWAP Agreement repayment terms.

106. After Recycletronics had difficulty making payments in compliance with the second amended repayment schedule, on February 10, 2016, the DNR and Rochester entered into a third agreement to amend the SWAP Agreement repayment terms.

107. Recycletronics failed to comply with the repayment terms in the third agreement to amend the SWAP Agreement.

108. To date, Recycletronics has repaid \$40,086.38 of the \$105,556.38 loaned to it by the DNR, but has not made any payment on the loan since September 8, 2015.

109. SWAP Agreement Special Conditions Section 7.1 provided “[i]f contractual obligations are not met to the satisfaction of the Department, then the forgivable loan will revert to a zero interest loan, repayment will be required.”

110. SWAP Agreement Special Conditions Section 7.5 provided that Recycletronics’ failure to pay any installment when due, may be cause for the DNR to terminate the Agreement and declare the entire unpaid balance immediately due and payable, including costs of collection.

111. SWAP Agreement General Conditions Section 8 provided Recycletronics “shall

comply with all local, state, and federal statutes, ordinances, and rules or other requirements applicable to the establishment and operation of the . . . facility.”

112. SWAP Agreement General Conditions Section 11 allowed the DNR to terminate the SWAP Agreement if Recycletronics materially failed to comply with the conditions of the Agreement.

113. On December 22, 2016, the DNR notified Rochester that due to Recycletronics’ failure to repay the SWAP loan in compliance with the repayment schedule, the SWAP Agreement was being terminated, and Recycletronics must pay the DNR the following: 1) the remaining balance of the zero-interest loan, \$45,470.00; 2) the “forgivable” portion of the loan agreement, \$20,000.00; and 3) a 15% cost of collection added to the total amount due pursuant to Section 7.5 of the SWAP Agreement, \$9,820.50.

114. Recycletronics breached the SWAP Agreement, and immediate repayment of all outstanding loans made pursuant to the SWAP Agreement are due and owing to the DNR, totaling \$75,290.50 ($\$45,470.00 + \$20,000.00 + \$9,820.50 = \$75,290.50$).

115. Recycletronics and Rochester currently owe the DNR \$75,290.50 for all loans made to Recycletronics pursuant to the SWAP Agreement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff State of Iowa ex rel., Iowa Department of Natural Resources requests the Court:

- a. assess a civil penalty against Aaron Rochester, The Name Ministries, Siouxland P.C., and Recycletronics, pursuant to Iowa Code sections 455B.191(2) and 455B.307(3), for each day of violation of 455B.307(1) and 567 Iowa Admin. Code 64.3(1), 100.4, and 122.10-24, not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation;
- b. issue a permanent injunction, pursuant to Iowa Code sections 455B.191(5) and 455B.307(2), enjoining Aaron Rochester, The Name Ministries,

Siouxland P.C., and Recycletronics from any further violation of 455B.307(1) and 567 Iowa Admin. Code 64.3(1), 100.4, and 122.10-24;

- c. enter an order requiring Aaron Rochester, The Name Ministries, Siouxland P.C., and Recycletronics to remove and properly dispose of all solid waste, including any electronic waste, located at Steuben Street Facility, Northbrook Drive Facility, 11th Street Facility, Feed Mill Facility, Scandinavian Facility, and Akron Facility, and to provide documentation of the proper disposal of said waste; and
- d. enter judgment against Aaron Rochester, The Name Ministries, Siouxland P.C., and Recycletronics in the amount of \$75,290.50.

Plaintiff further requests such other relief the Court may deem just and proper and that the Court tax the costs of this action to Aaron Rochester and Recycletronics.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/ Jacob J. Larson
JACOB J. LARSON
Assistant Attorney General
DAVID STEWARD
Assistant Attorney General
Environmental Law Division
1305 E. Walnut St., 2nd Floor
Des Moines, Iowa 50319
TEL: (515) 281-5341
FAX: (515) 281-6771
E-MAIL: jacob.larson@ag.iowa.gov
ATTORNEYS FOR PLAINTIFF