UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

AUG 10 2017

VIA E-MAIL AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Article Number: 7014 1200 0000 6127 0678

Mr. Aaron Rochester
Siouxland PC and Electronics Recycling LLC
1220 Steuben Street
Sioux City, Iowa 51105

Re: Invitation for Pre-filing Negotiations
Docket No. RCRA-07-2017-0226

Dear Mr. Rochester:

On June 15, 2015, April 17, 2016, May 23, 2016, December 13, 2016, and April 4-5, 2017, the U.S. Environmental Protection Agency, Region 7 conducted inspections at various Siouxland PC and Electronics Recycling LLC facilities located in Sioux City, Iowa to determine compliance with the requirements of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 – 6992k. Copies of these inspection reports have been mailed to you. Additionally, requests for information have been mailed and hand delivered to you over the same period of time. Based on the EPA's review of information gathered during these inspections, violations of RCRA and underlying regulations have been documented.

Violations of RCRA

During the course of these inspections, EPA has attempted to gather information to ascertain whether your company was in compliance with the exclusion to the definition of solid waste for Cathode Ray Tubes (CRTs). You have not provided information showing that you met the exclusion, and as a result, violations of RCRA have been observed. The violations include: (1) failure to conduct a hazardous waste determination pursuant to 40 C.F.R. § 262.11; (2) operating a treatment, storage or disposal facility without a RCRA permit or RCRA Interim Status pursuant to Section 3005 of RCRA; (3) treatment, storage and transportation of hazardous waste without an EPA Identification Number pursuant to 40 C.F.R. § 262.12(a); (4) failure to manifest hazardous waste pursuant to 40 C.F.R. § 262.20(a); (5) disposal of hazardous waste at a facility not permitted to handle hazardous waste pursuant to Section 3002 of RCRA and 40 C.F.R. § 262.20(b); and (6) failure to respond to requests for information pursuant to Section 3007 of RCRA.

It is the EPA's intent to proceed with the filing of an administrative complaint with compliance order in this matter sometime within the next 30 days. The EPA RCRA civil enforcement program is interested in ensuring that CRT waste stored at the following locations is properly disposed of in accordance with

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RCRA: G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility, Steuben Street Facility, and Foundry Road Facility.

By copy of this letter, the EPA is providing the states of Iowa and Nebraska with notice of the referenced violations of Subtitle C of RCRA as required by Section 3008(a)(2).

30-Day Pre-Filing Negotiations

While the EPA believes that it is appropriate to proceed with a formal enforcement action, we also recognize that settlement of this matter may be better accomplished by conducting negotiations prior to the filing of a complaint. By this letter, EPA is offering you the opportunity to negotiate a resolution of this matter before the complaint is filed. The settlement of this matter through performance of the injunctive relief must be memorialized in a Consent Agreement and Final Order to be signed by an authorized representative of Siouxland PC and Electronics Recycling LLC and the EPA within the 30-day period. As part of these pre-filing negotiations, the EPA will consider any additional information that you may provide that is relevant to the violations.

If you are interested in participating in pre-filing negotiations, please contact me within **14 calendar days** of your receipt of this letter at (913) 551-7110. If you choose not to participate in pre-filing negotiations, do not contact me within the 14-day time period, or settlement is not reached within the 30-day pre-filing time period, the EPA intends to proceed with the filing of an administrative complaint. Enclosed for your review is a proposed Consent Agreement and Final Order which sets forth the alleged violations and the work to be performed at the following facilities: G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility, Steuben Street Facility, and Foundry Road Facility. If you prefer, you may sign this Consent Agreement and Final Order and immediately begin work as set forth in the Work To Be Performed section in the Final Order.

Ability To Pay

If you believe that you do not have the financial ability to pay for the injunctive relief set forth in the proposed Consent Agreement and Final Order, and want the EPA to consider your financial condition, you must provide the EPA appropriate financial documentation to substantiate its claim **within the first 15 days** of the 30-day pre-filing negotiations period. Such documentation must include three years of signed federal income tax returns and audited financial statements, and a completed EPA financial ability to pay form. You may contact me for a copy of the form. Please note that review of these financial documents does not toll the 30-day pre-filing negotiations period.

As indicated above, the EPA has determined that there are serious violations of RCRA at the various facilities identified above that must be addressed. However, the EPA is committed to working with you to resolve this matter and believes that pre-filing negotiations offer both parties an opportunity to reach settlement without protracted litigation. Your immediate attention to this matter is greatly appreciated. If you have any questions, please do not hesitate to contact me at (913) 551-7110, or Rebecca Wenner, RCRA Compliance Officer, at (913) 551-7644.

Sincerely,

Kelley Catlin

Kelley Catlin
Assistant Regional Counsel

Enclosures: Proposed Consent Agreement and Final Order
Additional Sources of Information
SEC Notice

cc: Bill Ehm, Administrator (e-copy)
Environmental Services Division
Iowa Department of Natural Resources

Amie Davidson, Chief (e-copy)
Contaminated Sites Section
Iowa Department of Natural Resources

David Haldeman, Administrator (e-copy)
Waste Management Division
Nebraska Department of Environmental Quality

Jeff Edwards (e-copy)
Nebraska Department of Environmental Quality

Additional Sources of Information

- Information on RCRA and hazardous waste regulations:
  https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-regulations

- Information on Cathode Ray Tubes
  https://www.epa.gov/hw/cathode-ray-tubes-crts-0

- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22:
  https://www.epa.gov/enforcement/consolidated-rules-practice-40-cfr-part-22-administrative-assessment-civil-penalties

- Information on Small Businesses and Enforcement
  https://www.epa.gov/compliance/small-business-resources-information-sheet

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisionsthat have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

A. Such proceeding is material to the business or financial condition of the registrant;
B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amountinvolved, exclusive of interest and costs, exceeds 10 percent of the current assets of theregistrant and its subsidiaries on a consolidated basis; or
C. A governmental authority is a party to such proceeding and such proceeding involvespotential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than $100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, theprincipal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirementsand it is not a substitute for regulations published in the Code of Federal Regulations. This notice hasbeen issued to you for information purposes only. No determination of the applicability of this reportingrequirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legalproceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:	)	
	)	
Siouxland PC and Electronics Recycling LLC,	)	**CONSENT AGREEMENT AND FINAL ORDER**
	)	
Respondent.	)	**Docket No.** RCRA-07-2017-0226
	)	
Proceeding under Sections 3008(a) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. § 6928(a)	)	

I. PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) and Siouxland PC and Electronics Recycling LLC (hereinafter Recycletronics or Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules of Practice), 40 Code of Federal Regulations (C.F.R.) §§ 22.13(b) and 22.18(b)(2).

II. ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Sections 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

2. This Consent Agreement and Final Order serves as notice that the EPA has reason to believe that Respondent violated Sections 3002, 3005, and 3007 of RCRA, 42 U.S.C §§ 6922, 6925, and 6927, and the standards for identification and listing of hazardous waste (40 C.F.R. § 261), and the standards applicable to generators of hazardous waste (40 C.F.R. § 262).

Parties

3. Complainant is the Branch Chief of the Waste Enforcement and Materials Management branch in the Air and Waste Management Division of EPA, Region 7, as duly delegated from the Administrator of the EPA.

4. Respondent is Siouxland PC and Electronic Recycling LLC, a single member LLC, operating under the laws of Iowa. Mr. Aaron Rochester (Mr. Rochester) is the owner and single member.

Statutory and Regulatory Framework

5. When EPA determines that any person has violated or is in violation of any RCRA requirement, EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Section 3001 of RCRA, 42 U.S.C. § 6921(a), requires the Administrator to develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subchapter, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics.

7. The term "generator" means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation. 40 C.F.R. § 260.10.

8. The term "transportation" means the movement of hazardous waste by air, rail, highway, or water. 40 C.F.R. § 260.10.

9. The term "transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water. 40 C.F.R. § 260.10.

10. The term "facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. 40 C.F.R. § 260.10.

11. The term "treatment" means as any method, technique, or process designed to change the physical character or composition of any hazardous waste so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. 40 C.F.R. § 260.10.

12. The term "storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere. 40 C.F.R. § 260.10.

13. The term "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters. 40 C.F.R. § 260.10.

14. Pursuant to 40 C.F.R. § 261.2, a "solid waste" is any discarded material that is not excluded under 40 C.F.R. § 261.4(a).

15. Pursuant to 40 C.F.R. § 261.3, a "hazardous waste" is a solid waste, as defined in § 261.2, if it exhibits any of the characteristics of hazardous waste identified in subpart C of Part 261.

16. The term "cathode ray tube or CRT" is defined as a vacuum tube, composed primarily of glass which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released. 40 C.F.R. § 260.10.

17. The term "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation. 40 C.F.R. § 260.10.

18. The term "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass. 40 C.F.R. § 260.10.

19. The term "CRT processing" means conducting all of the following activities:

a. Receiving broken or intact CRTs; and
b. Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and
c. Sorting or otherwise managing glass removed from CRT monitors.

40 C.F.R. § 260.10.

20. The regulation at 40 § C.F.R. 261.4(a), identifies materials that are not solid wastes for purposes of Part 261, Identification and Listing of Hazardous Waste. Specifically, 40 C.F.R. § 261.4(a)(22) sets forth the following provisions:

a. Used, intact CRTs as defined in § 260.10 of this chapter are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in § 261.1(c)(8) by CRT collectors or glass processors.
b. Used, intact CRTs as defined in § 260.10 of this chapter are not solid wastes when exported for recycling provided that they meet the requirements of § 261.40.
c. Used, broken CRTs as defined in § 260.10 of this chapter are not solid

wastes provided that they meet the requirements of § 261.39.

d. Glass removed from CRTs is not a solid waste provided that it meets the requirements of § 261.39(c).

21. The conditional exclusion for used, broken CRTs and processed CRT glass undergoing recycling is found at 40 C.F.R. § 261.39. This regulation states that used, broken CRTs are not solid wastes if they meet certain conditions. The regulation sets forth conditions: a) prior to processing, b) requirements for used CRT processing, c) processed CRT glass sent to CRT glass making or lead smelting; and d) use constituting disposal.

22. Prior to processing, used, broken CRTs are not solid wastes if they are destined for recycling and if they meet the following requirements:

a. The broken CRTs must be stored in a building with a roof, floor, and walls, or placed in a container that is constructed, filled, or closed to minimize releases to the environment of CRT glass (including fine solid materials). 40 C.F.R. §§ 261.39(a)(1)(i) and (ii).
b. Each container in which the used, broken CRT is contained is labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass" or "Leaded glass from televisions or computers" and must also be labeled "Do not mix with other glass materials." 40 C.F.R. § 261.39(a)(2).
c. The used, broken CRTs must be transported in a container meeting the requirements of 40 C.F.R. §§ 261.39(a)(1)(ii) and (2). 40 C.F.R. § 261.39(a)(3).
d. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in paragraph (c)(8) (*sic*) of this section. If they are used in a manner constituting disposal, they must comply with the applicable requirements of part 266, subpart C instead of the requirements of this section. 40 C.F.R. § 261.39(a)(4).

23. Used, broken CRTs undergoing CRT processing as defined in § 260.10 of this chapter are not solid wastes if they meet the following requirements set forth at 40 C.F.R. § 261.39(b):

a. Used, broken CRTs undergoing processing are subject to the requirement of paragraph 40 C.F.R. § 261.39(a)(4); and
b. All activities specified in paragraphs (2) and (3) of the definition of "CRT processing" in § 260.10 of this chapter must be performed within a building with a roof, floor, and walls; and no activities may be performed that use temperatures high enough to volatilize lead from CRTs.

24. Glass from CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in 40 C.F.R. § 261.1(c)(8). 40 C.F.R. § 261.39(c).

25. Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of 40 C.F.R. part 266, subpart C instead of the requirements of this section. 40 C.F.R. § 261.39(d)

26. A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. 40 C.F.R. 261.1(c)(8).

27. Pursuant to 40 C.F.R. § 266.20(a), the regulations at Part 266 apply to recyclable materials that are applied to or placed on the land. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Parts 262 (Standards Applicable to Generators of Hazardous Waste) and 263 (Standards Applicable to Transporters of Hazardous Waste) of this chapter, and the notification requirement under section 3010 of RCRA.

28. According to the preamble to CRT rule, televisions and color computer monitors contain an average of four pounds of lead and studies show that CRTs leach lead at levels considerably above the toxicity characteristic regulatory level used to classify lead-container wastes as hazardous (40 C.F.R. § 261.24(b)). In addition, CRTs often contain mercury, cadmium, and arsenic. *See* 71 Fed. Reg. 42930 – 42931 (July 28, 2006).

29. The Toxicity Characteristic Leaching Test (TCLP) regulatory limit for lead is 5 mg/L, as found in subpart C of Part 261, 40 C.F.R. § 261.24.

30. Section 3002(a) of RCRA, 42 U.S.C. § 6922(a), requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment. Specifically, such standards shall establish requirements including, but not limited to, use of a manifest system and any other reasonable means necessary to assure that all such hazardous waste generated is designated for treatment, storage or disposal in, and arrives at, treatment, storage, or disposal facilities for which a permit has been issued as provided in this subchapter.

31. Pursuant to 40 C.F.R. § 262.12(a), "a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator."

32. Pursuant to 40 C.F.R. § 262.12(c), "a generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number."

33. Pursuant to 40 C.F.R. § 262.20(a) "a generator who transports, or offers for

transport a hazardous waste for offsite treatment, storage, or disposal…must prepare a Manifest…."

34. Pursuant to 40 C.F.R. § 262.20(b), "a generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest."

35. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), requires the Administrator to promulgate regulations requiring each person owning or operating an existing facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subchapter to have a permit issued pursuant to this subpart.

General Factual Background

36. Respondent is a business and operates within the state of Iowa. Respondent is considered a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

37. Respondent processes electronic equipment for recycling. As part of the recycling process, cathode ray tubes are processed as described at 40 C.F.R. § 260.10. Other equipment received by Respondent is sold to brokers for reuse or recycling.

38. EPA is aware of additional sites where Respondent operated, however, the facilities at issue in this matter are located at:

a. 3313 Northbrook Drive, Sioux City, Iowa (hereinafter Northbrook Drive Facility),
b. 1313 11th Street, Sioux City, Iowa (hereinafter 11th Street Facility),
c. 1220 Steuben Street, Sioux City, Iowa (hereinafter Steuben Street Facility),
d. 2301 G Street, South Sioux City, Nebraska (hereinafter G Street Facility),
e. 16998 160th Street, Akron, Iowa (hereinafter Akron Farm Facility),
f. 3035 Highway 75 North, Sioux City, Iowa (hereinafter Feed Mill Facility),
g. 1801-03 4th Street, Sioux City, Iowa (hereinafter Scandinavian Building Facility), and
h. 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, Sioux City, Iowa (hereinafter Foundry Road Facility).

39. EPA conducted the following inspections:

a. On or about June 16, 2015, (hereinafter June 2015 inspection), a representative of EPA conducted an inspection at the Northbrook Drive Facility.
b. On or about April 17, 2016, (hereinafter April 2016 inspection), a representative of EPA conducted an inspection at the G Street Facility.
c. On or about May 23, 2016, (hereinafter May 2016 inspection), a

representative of EPA conducted an inspection at the Northbrook Drive Facility and conducted an inspection at the G Street Facility.

d. On or about December 13, 2016, (hereinafter December 2016 inspection), representatives of EPA conducted an inspection at the Steuben Street Facility. As part of the inspection, the representatives drove by the Northbrook Drive Facility, 11th Street Facility and G Street Facility to ascertain whether any activities were ongoing.

e. On or about April 4-5, 2017, (April 2017 inspection), representatives of EPA conducted inspections at the Steuben Street Facility, G Street Facility, Foundry Road Facility, Akron Farm Facility, Feed Mill Facility and Scandinavian Building Facility. During these inspections, an x-ray fluorescence spectrometer (XRF) was utilized to screen lead levels in the glass, and physical confirmation samples were collected.

40. The Nebraska Department of Environmental Quality (NDEQ) collected photographs from the G Street Facility on or about October 5, 2015, and January 27, 2016.

41. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, EPA issued Respondent the following requests for information to obtain documents and records which would show whether or not Respondent was speculatively accumulating CRT glass or if the CRT glass was being used in a manner that constitutes disposal: December 1, 2015, December 13, 2016, and April 4, 2017.

Northbrook Drive Facility
June 2015 Inspection

42. During this inspection, Respondent was operating an electronics recycling facility at the Northbrook Drive Facility. Mr. Rochester indicated that Recycletronics had been operating at this location since 2013 and had seven employees.

43. At the time of the inspection, the Respondent had not notified EPA of any hazardous waste activity.

44. The inspector observed approximately 200, 1-cubic-yard cardboard containers of equipment waiting to be processed.

45. Mr. Rochester indicated that CRTs are processed by separating leaded and unleaded glass debris.

46. The inspector observed approximately 60, 1-cubic-yard cardboard containers of leaded glass in the warehouse and approximately 40, 1-cubic-yard cardboard containers of leaded glass in the glass room.

47. The inspector estimated that approximately seventy-five percent of the boxes failed to include the labeling required pursuant to 40 C.F.R. § 261.39(a)(2).

48. Mr. Rochester asserted that leaded glass is "recycled" by either Closed Loop Refining and Recovery (CLRR) of Phoenix, Arizona or by Technologies Displays America (TDA) of Calexico, California.

49. At the time of the inspection, the inspector requested documentation to verify the leaded glass was shipped to CLRR or TDA in order to ascertain whether Respondent was speculatively accumulating used, broken CRT glass pursuant to 40 C.F.R. § 261.39(b)(1) referencing 40 C.F.R. §§ 261.39(a)(4) and 261.1(c)(8).

50. Mr. Rochester indicated that the office computer crashed and no CLRR records were available.

51. Mr. Rochester produced one shipping document from TDA dated July 2, 2014. This invoice showed a shipment of thirteen boxes of leaded CRT glass which included a material safety data sheet showing the approximate percentage by weight of lead to be 25-30%. The shipment was for 39,808 pounds of leaded glass.

52. The inspector emailed Mr. Rochester on June 23, 2015, and July 1, 2015, asking whether any additional shipping documents were recovered from the computer. Mr. Rochester responded and indicated that the documents were not available. Specifically, Respondent did not provide any additional shipping records or other documentation regarding the used, broken CRTs or any records regarding speculative accumulation.

December 2015 Request for Information

53. On or about December 1, 2015, EPA issued a request for information pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. The letter requested additional information regarding Respondent's recycling operations, and any records related to shipments of used, broken CRTs among other items.

54. Respondent received the request for information on February 22, 2016, and never provided a response. Specifically, Respondent did not provide any shipping records or other documentation regarding the used, broken CRTs or any records regarding speculative accumulation.

May 2016 Inspection

55. During this inspection, Respondent was operating an electronics recycling facility at the Northbrook Drive Facility.

56. At the time of the inspection, Respondent had not notified EPA of any hazardous waste activity.

57. The inspector observed 1, 1-cubic-yard cardboard container of leaded glass.

58. The inspector observed 24 containers of unprocessed electronic equipment

outside and over 50 containers of unprocessed used electronic equipment in the warehouse.

59. The inspector requested documentation to ascertain whether the leaded CRT glass was being speculatively accumulated pursuant to 40 C.F.R. § 261.39(b)(1) referencing 40 C.F.R. §§ 261.39(a)(4) and 261.1(c)(8).

60. Mr. Rochester did not produce any shipping records and stated that the computer "crashed" May 20, 2016, and that no shipping records were available.

61. The inspector emailed Mr. Rochester on May 31, 2016, and June 1, 2016, asking whether any shipping documents were recovered from the computer.

62. Respondent failed to respond to the follow-up email requests. Specifically, Respondent did not provide any shipping records regarding the used, broken CRTs or any records regarding speculative accumulation.

December 2016 Inspection

63. EPA drove by Northbrook Drive Facility and observed that no equipment, electronic waste or CRTs were stored outside the building.

11th Street Facility
December 2016 Inspection

64. Mr. Rochester provided information regarding operations at the 11th Street Facility.

65. Mr. Rochester stated that the 11th Street Facility was in operation from 2013 to 2015.

66. Mr. Rochester stated that during the summer of 2015 through October 2015, he directed his employees to crush the leaded and non-leaded glass together with a skid loader.

67. Mr. Rochester stated that during the summer of 2015 through October 2015, he directed his employees to transport the crushed CRT glass to the G Street Facility.

68. Respondent had not requested, nor had EPA issued, a permit to Respondent to treat hazardous waste at the 11th Street Facility.

69. Respondent did not prepare a hazardous waste manifest prior to transporting hazardous waste from the 11th Street Facility to the G Street Facility.

70. Respondent had not requested, nor had EPA issued, an EPA identification number to transport hazardous waste.

71. EPA has not issued a treatment, storage, and disposal facility (TSDF) permit to

the G Street Facility to accept and/or store hazardous waste.

72. During the December 2016 Inspection, EPA drove by 11th Street Facility and observed that no equipment, electronic waste or CRTs were stored outside the building.

G Street Facility

NDEQ Site Visit

73. On or about October 5, 2015 and January 27, 2016, Representatives from NDEQ photographed crushed CRT glass stored at an outside parking lot at the G Street Facility. The photographs show an un-containerized pile of crushed CRT glass on a concrete pad. Snow was observed on the pile during the January Site Visit.

April, May and December 2016 Inspections

74. During the April 2016 inspection, an EPA representative observed the pile of CRT glass from public access points. The north wall of the pile was comprised of approximately 30, 275-gallon plastic and metal framework totes, and was approximately 100-feet long. The east and west walls of the pile were comprised of approximately 13, 275-gallon plastic and metal framework totes, and was approximately 40-feet long.

75. The totes appeared to be filled with crushed glass and were not labeled.

76. The south side of the pile of crushed glass was not in totes but laying on the open ground.

77. During the May 2016 inspection, the pile appeared to be covered with a tarp. The north, east and west walls of the pile appeared to be approximately the same size as during the April 2016 inspection. There were approximately 30, 275-gallon totes on the west side that were approximately half full of crushed glass that were not part of the west wall. The inspector observed some of the crushed glass had been removed from the south side of the pile. The north and east walls were in standing water.

78. During the December 2016 inspection, the pile appeared to be about the same size as during the April and May inspections and appeared to be partially covered. An additional 19, 275-gallon plastic and metal framework totes with crushed glass were located on top of the tarp.

April 2017 Inspection

79. Representatives of EPA conducted XRF screening for lead on the soil around the outdoor pile of broken glass and collected confirmatory soil samples. EPA collected a surface water sample around the outdoor pile of broken glass. EPA conducted XRF screening for lead and collected a confirmatory sample of leaded glass. All confirmatory samples, and the water sample, were submitted to the EPA Region 7 laboratory for lead analysis.

80. Two of the four soil samples collected at the G Street Facility indicated the

presence of lead, but did not exceed the TCLP regulatory limit. The water sample indicated the presence of lead.

81. The physical sample of leaded glass collected from the G Street Facility exceeded the regulatory limit for lead. The analytical results for the leaded glass revealed lead concentrations up to 78.4 mg/L.

82. Based on information collected during the April 2017 inspection, EPA estimates that approximately 3,378,684 pounds of crushed leaded glass is stored at the G Street Facility.

Steuben Street Facility
December 2016 Inspection

83. During this inspection, Respondent was operating an electronics recycling facility at the Steuben Street Facility. Mr. Rochester indicated Recycletronics moved to the Steuben Street Facility in September 2016. Recycletronics employed approximately five employees at this location.

84. At the time of the inspection, Respondent had not notified EPA of any hazardous waste activity.

85. Mr. Rochester indicated that the facility had the capability to process 500 pounds of electronics per day. Mr. Rochester further indicated that during a busy month 13 to 60, 1-cubic-yard cardboard boxes of broken leaded funnel glass can be generated.

86. The inspector observed approximately 300, 1-cubic-yard cardboard containers of leaded glass, unleaded panel glass, and electronics inside the warehouse.

87. Of the 300 containers, at least 5, 1-cubic-yard cardboard containers contained broken CRTs and were labeled with the words "Used Cathode Ray Tubes – Contains Lead Glass" and "Do Not Mix with Other Glass Material" and at least 4, 1-cubic-yard cardboard containers of broken leaded funnel panel glass labeled with the words "Used Cathode Ray Tubes – Contains Lead Glass" and "Do Not Mix with Other Glass Material". Due to lack of aisle space and safety considerations, the inspector was unable to visually inspect the contents of the remaining containers.

88. The inspector observed approximately 96, 1-cubic-yard cardboard containers of broken leaded funnel glass, unleaded panel glass, and electronics outside the warehouse on the dock. A facility representative indicated that the containers had been on-site since August or September 2016 when they were moved from the Northbrook Drive Facility. Due to lack of aisle space and safety considerations, the inspector was unable to visually inspect the contents of each container.

89. The inspector observed a 50-foot long pile, approximately four-feet high, of televisions and computer monitors on the ground on the west side of the dock. According to an employee, the pile had been accumulating for at least four to five weeks.

90. The inspector observed a 100-foot long pile, approximately three feet high, of CRT containing televisions and CRT containing computer monitors on the east side of the dock. The pile contained a minimum of 50, 1-cubic-yard containers of broken glass, intact CRTs, broken CRTs, and electronics. According to an employee, these materials had been accumulating for approximately four to five weeks.

91. Within the 100-foot pile at least 2, 1-cubic-yard containers of broken CRTs were open and unlabeled and at least 1, 1-cubic-yard container of broken glass and one broken CRT that was open, unlabeled and filled with snow.

92. The inspector requested documentation to ascertain whether the leaded CRT glass was being speculatively accumulated pursuant to 40 C.F.R. § 261.39(b)(1) referencing 40 C.F.R. §§ 261.39(a)(4) and 261.1(c)(8).

93. Mr. Rochester did not produce any shipping records and stated that he did not have any electronic shipment records.

December 2016 Request for Information

94. At the end of the December 2016 inspection, EPA hand-delivered a request for information issued pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. The letter requested, among other things, additional information regarding Respondent's recycling operations, and any records related to shipments of used, broken CRTs and generation rate.

95. EPA received a response from Mr. Rochester on January 19, 2017. Respondent did not provide any shipping records or other documentation regarding the used, broken CRTs or any records regarding speculative accumulation.

April 2017 Inspection

96. Representatives of EPA conducted XRF screening for lead on glass stored at the Steuben Street Facility and collected a physical sample of leaded glass and non-leaded glass.

97. The physical sample of leaded glass collected from the Steuben Street Facility exceeded the regulatory limit for lead. The analytical results for the leaded glass revealed lead concentrations up to 6.84 mg/L.

98. Based on information collected during the April 2017 inspection, EPA estimates that approximately 1,248,000 pounds of broken leaded glass is stored at the Steuben Street Facility.

April 2017 Request for Information

99. At the end of the April 2017 inspection, EPA hand-delivered a request for information issued pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927. The letter requested,

among other things, additional information regarding Respondent's recycling operations, and any records related to shipments of used, broken CRTs and generation rate.

100. Respondent failed to respond to the request for information. Specifically, Respondent did not provide any shipping records or other documentation regarding the used, broken CRTs or any records regarding speculative accumulation.

Akron Farm Facility
April 2017 Inspection

101. Mr. Rochester stated that he used a 9,000 square-foot building at the Akron Farm Facility to store electronics and a mixture of "everything". He indicated that he began sending material to the building in 2013. Mr. Rochester stated that he pays monthly rent.

102. At the time CRT glass was being taken to the Akron Farm Facility, the Northbrook Drive Facility was actively processing CRT glass. EPA has requested shipping records that would document management of CRTs as early as 2013 through 2017. Respondent has only provided one shipping record from 2014.

103. Representatives of EPA conducted XRF quantitative screening on leaded glass stored at the Akron Farm Facility, and collected a physical sample of leaded glass.

104. The physical sample of leaded glass collected from the Akron Farm Facility exceeded the regulatory limit for lead. The analytical results for the leaded glass revealed lead concentrations up to 11 mg/L.

105. Based on information collected during the April 2017 inspection, EPA estimates that approximately 8,424,000 pounds of broken leaded glass is stored at the Akron Farm Facility. EPA representatives estimate that 1-cubic yard cardboard boxes were placed sixteen wide, forty-five long and stacked three high. The EPA representatives observed that the boxes appear to be mostly broken glass, but some intact/broken CRTs were observed.

Feed Mill Facility
April 2017 Inspection

106. Mr. Rochester stated that he previously rented the Feed Mill Facility and began taking CRT glass to the building between 2012 and 2013. Mr. Rochester stated that, at the time of the April 2017 inspection, there may be some full units, but should just be CRT glass.

107. At the time CRT glass was being taken to the Feed Mill Facility, the Northbrook Drive Facility was actively processing CRT glass. EPA has requested shipping records that would document management of CRTs as early as 2013 through 2017. Respondent has only provided one shipping record from 2014.

108. Representatives of EPA conducted XRF quantitative screening on leaded glass stored at the Feed Mill Facility, and collected a physical sample of leaded glass.

109. The physical sample of leaded glass collected from the Feed Mill Facility exceeded the regulatory limit for lead. The analytical results for the leaded glass revealed lead concentrations up to 8.54 mg/L.

110. Based on information collected during the April 2017 inspection, EPA estimates that approximately 2,199,600 pounds of broken leaded glass is stored at the Feed Mill Facility.

Scandinavian Building Facility
April 2017 Inspection

111. The owner of the Scandinavian Building Facility stated that he began renting the third floor of the building to Mr. Rochester in 2012-2013.

112. The owner of the Scandinavian Building Facility stated that Mr. Rochester moved used, broken CRTs to the Scandinavian Building Facility in 2012-2013.

113. At the time CRT glass was being taken to the Scandinavian Building Facility, the Northbrook Drive Facility was actively processing CRT glass. EPA has requested shipping records that would document management of CRTs as early as 2013 through 2017. Respondent has only provided one shipping record from 2014.

114. Representatives of EPA conducted XRF quantitative screening on leaded glass stored at the Scandinavian Building Facility, and collected a physical sample of leaded glass.

115. The physical sample of leaded glass collected from the Scandinavian Building Facility exceeded the regulatory limit for lead. The analytical results for the leaded glass revealed lead concentrations up to 7.71 mg/L.

116. Based on information collected during the April 2017 inspection, EPA estimates that approximately 496,780 pounds of intact and/or broken CRTs is stored at the Scandinavian Building Facility.

Foundry Road Facility
April 2017 Inspection

117. Representatives of EPA spoke with the owner of the Foundry Road Facility. He stated that Mr. Rochester brought cardboard boxes of glass to the site in October 2015.

118. The owner of the Foundry Road Facility indicated that he instructed his employees to dump the glass on the ground and burned the glass, cardboard boxes, and pallets. The employees then removed the metal, and glass was left on the ground.

119. Representatives of EPA conducted XRF quantitative screening on leaded glass stored on the ground at the Foundry Road Facility, and collected a physical sample of the leaded glass.

120. The physical sample of leaded glass collected from the Foundry Road Facility was within the TCLP regulatory limit for lead.

121. Based on information collected during the April 2017 inspection, EPA estimates that approximately 1,170,987 pounds of broken leaded glass is mixed with soil on the ground at the Foundry Road Facility.

Violations

122. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1
Failure to Conduct Hazardous Waste Determination

123. Complainant hereby incorporates the general factual allegations contained in Paragraphs 36 through 121 above, as if fully set forth herein.

124. Pursuant to 40 C.F.R. § 261.2, a "solid waste" is any discarded material that is not excluded under 40 C.F.R. § 261.4(a).

125. 40 C.F.R. 261.4(a)(22) sets forth an exclusion from the definition of solid waste for used CRTs.

126. The conditions for meeting the exclusion are found at 40 C.F.R. § 261.39. If a recycler fails to comply with any of these conditions, the CRT exclusion no longer applies and the CRTs are considered a solid waste.

127. The condition set forth at 40 C.F.R. § 261.39(c) states that glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in § 261.1(c)(8).

128. EPA requested documentation from Respondent to ascertain whether used, broken CRTs at any of the following facilities were being speculatively accumulated as early as 2013 through 2017:

a. Northbrook Drive Facility, 3313 Northbrook Drive, Sioux City, Iowa
b. 11th Street Facility, 1313 11th Street, Sioux City, Iowa
c. Steuben Street Facility, 1220 Steuben Street, Sioux City, Iowa
d. G Street Facility, 2301 G Street, South Sioux City, Nebraska
e. Akron Farm Facility, 16998 160th Street, Akron, Iowa
f. Feed Mill Facility, 3035 Highway 75 North, Sioux City, Iowa
g. Scandinavian Building Facility, 1801-03 4th Street, Sioux City, Iowa
h. Foundry Road Facility, 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, Sioux City, Iowa

129. Respondent has failed to provide any documentation to show the material was not being speculatively accumulated.

130. As a result of Respondent's failure to document it was not speculatively accumulating CRT glass, it failed to meet the conditional exclusion for used, broken CRTs and processed CRT glass undergoing recycling found at 40 C.F.R. § 261.39. Accordingly, the processed CRTs that were stored at the facilities cited above are solid wastes.

131. Because of the lead content described in Paragraphs 81, 97, 104, 109, and 115, in addition to information and studies of lead levels in used, broken CRTs found in the preamble to the CRT Rule as described in Paragraph 28, the used, broken CRTs and processed CRT glass (broken glass) at the facilities cited above constitute "hazardous waste" as defined in 40 C.F.R. §§ 260.10, 261.3, 261.24, 262.11 and Section 3001(a) of RCRA, 42 U.S.C. § 6921.

132. Respondent's failure to perform a hazardous waste determination on the above-referenced solid waste streams is a violation of 40 C.F.R. § 262.11.

Count 2
Operating a Treatment, Storage or Disposal Facility
Without a RCRA Permit or RCRA Interim Status

133. Complainant hereby incorporates the allegations contained in Paragraphs 36 through 121, above, as if fully set forth herein.

134. Section 3005 of RCRA, 42 U.S.C. § 6925, requires each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under Subchapter C of RCRA to have a permit for such activities.

135. During the summer of 2015, Respondent treated hazardous waste when it:

a. Directed its employees to mix the leaded glass with non-leaded glass in an effort to render the material non-hazardous, and
b. Reduced the volume of CRT hazardous waste using a skid loader at the 11th Street Facility.

136. At no time has EPA issued a RCRA permit to Respondent to operate a treatment facility at the 11th Street Facility.

137. Respondent was not authorized to treat hazardous waste at the 11th Street Facility, and therefore was operating a hazardous waste treatment, storage or disposal facility without a permit in violation of violation of Section 3005 of RCRA, 42 U.S.C. § 6925 and the implementing regulations found at 40 C.F.R. Part 265.

Count 3
Treatment, Disposal and Transportation of Hazardous Waste Without an EPA Identification Number

138. Complainant hereby incorporates the general factual allegations contained in Paragraphs 36 through 121 above, as if fully set forth herein.

139. Pursuant to 40 C.F.R. § 262.12(a), a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number.

140. Pursuant to 40 C.F.R. § 262.12(c), a generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

141. Beginning at a time unknown, but at least as early as the summer of 2015, Respondent treated used, broken CRT hazardous waste at the 11th Street Facility without an EPA Identification Number, transported used, broken CRT hazardous waste from the 11th Street Facility to the G Street Facility, and disposed of CRT hazardous waste at the G Street Facility.

142. Beginning at a time unknown, but at least as early as 2012, Respondent transported used, broken CRT hazardous waste from the Northbrook Facility and Steuben Street Facility to the Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility and Foundry Road Facility. Respondent disposed of used, broken CRT hazardous waste at these facilities.

143. Respondent had not requested, nor had EPA assigned Respondent, an EPA identification number prior to the treatment, transportation, and disposal of used, broken CRT hazardous waste described above.

144. The following facilities have not received an EPA identification number: G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility and Foundry Road Facility.

145. Respondent's treatment, transportation and disposal of used, broken CRT hazardous waste without an EPA Identification Number is a violation of 40 C.F.R. § 262.12(a).

146. Respondent's transportation and disposal of used, broken CRT hazardous waste to facilities without an EPA identification number is a violation of 40 C.F.R. § 262.12(c).

Count 4
Failure to Manifest Hazardous Waste

147. Complainant hereby incorporates the general factual allegations contained in Paragraphs 36 through 121 above, as if fully set forth herein.

148. Pursuant to 40 C.F.R. 262.20(a), a generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage, or disposal must prepare a Manifest, EPA Form 8700-22, before the waste is transported off-site.

149. Beginning at a time unknown, but at least as early as 2012, Respondent directed its employees to transport CRT hazardous waste for off-site treatment, storage or disposal.

150. Respondent did not prepare a Manifest, EPA Form 8700-22, before transporting waste to the G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility or Foundry Road Facility.

151. Respondent's failure to prepare a Manifest, EPA Form 8700-22, before the CRT hazardous waste was transported off-site is a violation of 40 C.F.R. § 262.20(a).

Count 5
Disposal of Hazardous Waste at a Facility Not Permitted to Handle Hazardous Waste

152. Complainant hereby incorporates the general factual allegations contained in Paragraphs 36 through 121 above, as if fully set forth herein.

153. Pursuant to Section 3002(a)(5), 42 U.S.C. § 6923(a)(5), EPA was charged with establishing regulations which included use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in, and arrives at, treatment, storage, or disposal facilities for which a permit has been issued as provided pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925.

154. In order to accomplish that charge, pursuant to 40 C.F.R. § 262.20(b), a generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

155. Beginning at a time unknown, but at least as early as 2012, Respondent discarded hazardous waste at the following facilities: G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility, and Foundry Road Facility.

156. The G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility, and Foundry Road Facility are not permitted to handle hazardous waste.

157. Respondent failed to designate and assure discarded CRT hazardous waste arrived at facilities that were permitted to handle hazardous waste in violation of RCRA Section 3002(a)(5) and 40 C.F.R. § 262.20(b).

Count 6
Failure to Respond to Requests for Information

158. Complainant hereby incorporates the allegations contained in Paragraphs 36 through 121 above, as if fully set forth herein.

159. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste shall, upon request of any officer, employee or representative the EPA, furnish information relating to such wastes.

160. On or about February 22, 2016, Respondent received a request for information, dated December 1, 2015, issued pursuant to Section 3007 of RCRA. The request for information required a response within thirty (30) days of receipt of the request for information.

161. Respondent failed to respond to any of the questions set forth in the request for information.

162. On or about April 4, 2017, EPA hand-delivered a request for information issued pursuant to Section 3007 of RCRA. The request for information required a response within fifteen (15) days of receipt of the request for information.

163. Respondent failed to respond to any of the questions set forth in the request for information.

164. Respondent's failure to respond to the December 1, 2015, and April 4, 2017, requests for information are violations of Section 3007 of RCRA, 42 U.S.C. § 6927.

CONSENT AGREEMENT

165. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

166. Respondent admits the jurisdictional allegations of this Consent Agreement and Final Order and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order set forth below.

167. Respondent neither admits nor denies the factual allegations set forth in this Consent Agreement and Final Order.

168. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

169. Respondent and Complainant agree to conciliate the matters set forth in this Consent Agreement and Final Order without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

170. Nothing contained in the Final Order portion of this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable

federal, state, and local environmental statutes and regulations and applicable permits.

171. This Consent Agreement and Final Order shall only resolve Respondent's liability for the injunctive relief performed in response to the RCRA violations alleged in this Consent Agreement and Final Order.

172. Complainant reserves the right to pursue penalties pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, for the violations alleged in this Consent Agreement and Final Order, and the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.

173. This Consent Agreement and Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of RCRA and regulations promulgated thereunder.

174. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

175. Respondent consents to the issuance of this Consent Agreement and Final Order.

Effective Date

176. This Consent Agreement and Final Order shall be effective upon filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

Reservation of Rights

177. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms of the Final Order portion of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Fifty-Six Thousand Four Hundred Sixty-Seven Dollars ($56,467) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

178. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this Consent Agreement and Final Order.

179. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or

corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from any facilities described herein.

180. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility, or any other facilities described herein, may present an imminent and substantial endangerment to human health and the environment.

181. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

182. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon a written determination by Complainant that Respondent has fully implemented the actions required in the Final Order.

FINAL ORDER

A. Work To Be Performed

1. **Contractor Selection**. Within fourteen (14) days of the effective date of this Final Order, Respondent shall notify EPA of the name and qualifications of its selected Contractor, subject to EPA approval, to carry out all activities set forth herein. All work performed under this Final Order shall be under the direction and supervision of a professional engineer licensed in the state of Iowa or other Iowa licensed environmental professional with expertise in environmental investigations and remediation.

2. **Project Manager Selection**. Within fourteen (14) days of the effective date of this Final Order, Respondent shall notify EPA of the name and qualifications of its selected Project Manager. To the greatest extent possible, Respondent's Project Manager shall be readily available during all work to be performed hereunder. Respondent's Project Manager shall have the authority to act on behalf of Respondent.

3. Respondent shall notify EPA of the name and qualifications of any other Contractors or Subcontractors retained to perform work under this CAFO at least seven (7) days prior to commencement of such work. Contractors or Subcontractors include, but are not limited to, hourly workers, the names and EPA identification Numbers of the transporter(s), and TSD facility(ies) that will be used for the transportation and disposal of used, broken CRTs.

4. EPA retains the right to approve or disapprove the selected Contractors, Subcontractors, or Project Manager retained by the Respondent. If EPA disapproves of any Contractors, Subcontractors, or Project Manager, Respondent shall retain a different Contractor, Subcontractor, or Project Manager, and notify EPA of the new Contractor, Subcontractor, or

Project Manager's name and qualifications within seven (7) business days following receipt of EPA's disapproval. If EPA still disapproves of the selected Contractor, Subcontractor, or Project Manager, Respondent shall propose a different Contractor, Subcontractor and/or Project Manager until all are approved by EPA's representative identified in Paragraph 12 below.

5. Respondent shall apply for an EPA Identification Number pursuant to 40 C.F.R. § 262.12 and notify the EPA within fourteen (14) days of the effective date of the Final Order. Respondent's application and notification shall reflect the name that the business currently operates under.

6. Within fourteen (14) days of the effective date of this Final Order, Respondent shall provide written or documentary evidence that Respondent has secured access for Respondent and Respondent's Project Manager, Contractor and Subcontractors, as well as for EPA personnel and IDNR/NDEQ personnel (as appropriate). Locations include: G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility and Foundry Road Facility.

7. Within thirty (30) days of the effective date of this Final Order, Respondent shall submit to EPA a Work Plan for the management and disposal of intact, used, broken, and/or crushed CRT glass and other electronic materials located at the following facilities: Steuben Street Facility, G Street Facility, Akron Farm Facility, Feed Mill Facility, Scandinavian Building Facility and Foundry Road Facility. Intact, used, broken, and/or crushed CRT glass must be transported off-site to a permitted hazardous waste treatment, storage or disposal facility, in accordance with all applicable federal, state and local regulations. Respondent shall provide a description of how non-hazardous waste stored at these locations will be managed and properly disposed of in accordance with RCRA. The Work Plan shall include:

a. A detailed description of how used, broken CRTs will be managed while onsite, while being transported, and disposed in accordance with RCRA.
b. A list of all potential disposal locations, include EPA ID number, name, address and disposal method.
c. A schedule for implementation of all activities described in the Work Plan, including specific dates each load will be shipped to a TSD facility,
d. The estimated weight of each shipment,
e. A final shipment date of used, broken CRT which shall be no later than ninety (90) days after EPA approval of the Work Plan (or approval with comments).
f. A Health and Safety Plan (HASP) to ensure the safety of the individuals working on the management and disposal of used, broken CRTs that are not containerized or are in containers which are in poor condition. The HASP shall be consistent with applicable Occupational Safety and Health Administration regulations. The HASP will not be subject to EPA approval or disapproval.
g. A provision that e-mail notification shall be sent to the EPA representative identified in Paragraph 12 below, five (5) days before any on-site work at any facility in order to allow EPA or its representatives to observe work

being performed. Respondent shall describe in the email the work expected to be performed and the date, times and location of the work.

8. The Work Plan shall be reviewed by EPA. EPA will review and either approve the Work Plan, or approve the Work Plan with comments. Respondent shall implement the Work Plan as approved or as approved with comments. Failure to implement the approved Work Plan shall constitute a violation of this Final Order.

9. Respondent shall submit a monthly summary report by the 5th day of each month (to cover the preceding calendar month or partial calendar month) to EPA that includes all of the following information:

a. A description of work performed in the preceding thirty (30) day period;
b. The date of each shipment;
c. The names and EPA Identification Numbers of the transporter(s) and TSDF(s) utilized for each shipment;
d. The total amount of hazardous waste for each shipment;
e. A legible copy of the hazardous waste manifest for each shipment; and
f. A certification from Respondent as to the accuracy of the monthly summary report. The certification shall read:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

10. Within fourteen (14) days of the final shipment of hazardous waste, Respondent will submit to EPA a Completion Report that includes all of the following:

a. A list of the date and manifest number for each shipment of hazardous waste;
b. A legible copy of all hazardous waste manifests for each shipment of waste;
c. A summary of the total amount of hazardous waste disposed;
d. A detailed summary of the actual cost of Respondent's performance of the actions described in the Completion Report. These costs should be supported by legible copies of all invoices, bills, and receipts along with documentation that all costs have been paid by Respondent.
e. A certification from Respondent as to the accuracy of the Completion Report. The certification shall be identical to the certification in Paragraph 10(f) above.

11. EPA will review the Completion Report. If EPA finds that the work has not been completed satisfactorily, Respondent shall submit a supplemental Work Plan in accordance with

Paragraphs 1-11 above for the remaining work as described by EPA. If EPA finds that the work has been completed satisfactorily, EPA will approve the Completion Report.

12. Respondent shall submit all documentation generated to comply with the requirements as set forth in Paragraphs 1 - 11 above to the following address:

If by mail:
Rebecca Wenner, AWMD/WEMM
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
If by email: *Wenner.Rebecca@epa.gov*

B. Parties Bound

13. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

_____	_____
Date	Mary Goetz, Branch Chief Waste Enforcement and Materials Management Branch Air and Waste Management Division
_____	_____
Date	Kelley Catlin Office of Regional Counsel

RESPONDENT:

SIOUXLAND PC AND ELECTRONICS RECYCLING LLC

_____ _____
Date Signature

_____
Printed Name

_____
Title

IT IS SO ORDERED. This Final Order shall become effective upon filing.

_____ _____

Date

Karina Borromeo
Regional Judicial Officer