

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	2017 PCB 19
)	
CRANBROOK FARMS, LLC, an)	
Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

To: Persons on Attached Service List
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Motion for Relief from Hearing Requirement and Agreed First Modification to Stipulation and Proposal for Settlement, true and correct copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of
Illinois

By: /s/ Nancy J. Tikalsky
Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(872) 272-0776
Nancy.Tikalsky@ilag.gov

Dated: December 30, 2021

SERVICE LIST

Cranbrook Farms LLC
c/o Brad Hartmann
9703 SW 76th Lane Road
Ocala, FL 34481
Bradfodhartmann@att.net

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of December 30, 2021 the attached Notice of Filing, Motion for Relief from Hearing Requirement and Agreed First Modification to Stipulation and Proposal for Settlement upon the persons listed on the foregoing Service List by depositing the document with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601 by the time of 5:00 p.m., with proper postage prepaid and via electronic mail.

/s/ Nancy J. Tikalsky
Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(872) 272-0776
Primary e-mail: Nancy.Tikalsky@ilag.gov

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2020), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020). In support of this motion, Complainant states as follows:

1. On May 21, 2020, the Board entered an opinion and order that accepted and incorporated the Stipulation and Proposal for Settlement filed in this matter on March 20, 2020 (“Stipulation”). The Stipulation included obligation for the Respondent to complete certain future compliance activities by a date certain to address violations on the South Farm. (Sections 12(a) and (d) of the Act, 415 ILCS 5/12(a) and (d) (2020), and Section 501.404(c)(2) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(2)).
2. The parties have reached agreement to modify the future compliance activities completion dates enumerated in the Stipulation.
3. This agreement is presented to the Board in an Agreed First Modification to

Stipulation and Proposal for Settlement filed this same date.

4. All parties agree that a hearing on the Agreed First Modification to Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Nancy J. Tikalsky
NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
(872) 272-0776
Nancy.tikalsky@ilag.gov
Maria.cacaccio@ilag.gov

DATE: December 30, 2021

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AGREED FIRST MODIFICATION TO STIPULATION AND PROPOSAL FOR SETTLEMENT

1. This Agreed First Modification to Stipulation and Proposal for Settlement (“Modification”) modifies the Stipulation and Proposal for Settlement accepted and incorporated with the Illinois Pollution Control Board Opinion and Order filed on May 21, 2020 (“Stipulation”).

2. Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and the Illinois Environmental Protection Agency (“Illinois EPA”), and Respondent, CRANBROOK FARMS, LLC, an Illinois limited liability company (“Cranbrook”)(“Parties of the Stipulation”), have agreed to the making of this Modification pursuant to the terms of the Stipulation.

3. This Modification is made pursuant to paragraph V.H.2. of the Stipulation, which provides as follows:

H. Enforcement and Modification of Stipulation

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

4. This Modification supersedes the Stipulation to the extent specifically stated herein.

5. Subparagraphs V.D.1(c) and (d) of the Stipulation, captioned South Farm, are modified and subsection (e) is added as follows:

- c. By January 1, 2023, Respondent shall complete the dewatering and removal of all manure sludge and solids from the South Lagoon and the North Lagoon on the South Farm per Illinois EPA oversight and approval as follows:
 - i) Beginning as of the date the Board adopts and accepts this Stipulation, Respondent shall provide monthly written and photographic documentation of its progress to the Illinois EPA, within 10 days of the end of each month; and
 - ii) at least two (2) weeks prior to sludge removal, Respondent shall notify the Illinois EPA of sludge removal; and
- d. By February 1, 2023, Respondent shall submit a final report, including a written description and photographic evidence, to the Illinois EPA that demonstrates Respondent has completed the activities required by paragraph V.D.2.c.
- e. In the alternative, by February 1, 2023, Respondent may submit to the Illinois EPA a site evaluation report for one or both lagoons that provides an estimate of the total amount of nitrogen remaining in the manure sludge and that evaluates the potential for causing an exceedance of the Class II groundwater quality standard of 100mg/L of nitrate (35 Ill. Admin. Code 620.420(a)(1)). The sampling and calculations for the site evaluation report must be conducted by a qualified third party. The site evaluation report must include analyses of at least four representative samples from each lagoon being evaluated for the following nitrogen parameters: ammonia, organic nitrogen, TKN, and nitrate/nitrite. Upon receipt of a site evaluation report, the Illinois EPA will review the document. If the Illinois EPA concurs that the site evaluation report demonstrates that a pollution threat to groundwater is no longer present, Illinois EPA will issue a written determination to the Respondent that no further sludge removal is required for the subject lagoon(s).

6. Subparagraph V.F. of the Stipulation, captioned Correspondence, Reports and Other Documents As to the Respondent, is modified to add the following:

Brad Hartmann
9703 SW 76th Lane Rd
Ocala, FL 34481
630.777.2993

8. This Modification may be executed in counterparts.

9. This Modification is hereby incorporated by reference into the Stipulation.

10. Except as modified herein, all of the other provisions of the Stipulation remain in full force and effect.

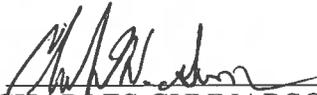
FOR THE COMPLAINANT:
PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
STEPHEN J. SYLVESTER, Chief
Assistant Attorney General
Environmental Bureau

BY: 
CHARLES GUNNARSON
Chief Legal Counsel

DATE: 12/22/21

DATE: 12/20/21

FOR THE RESPONDENT:

CRANBROOK FARMS, LLC

BY: _____

Name: _____

Title: _____

Date: _____

- 8. This Modification may be executed in counterparts.
- 9. This Modification is hereby incorporated by reference into the Stipulation.
- 10. Except as modified herein, all of the other provisions of the Stipulation remain in full force and effect.

FOR THE COMPLAINANT:
 PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
 Attorney General of the
 State of Illinois

ILLINOIS ENVIRONMENTAL
 PROTECTION AGENCY

MATTHEW J. DUNN, Chief
 Environmental Enforcement/
 Asbestos Litigation Division

JOHN J. KIM, Director
 Illinois Environmental Protection Agency

BY: _____
 STEPHEN J. SYLVESTER, Chief
 Assistant Attorney General
 Environmental Bureau

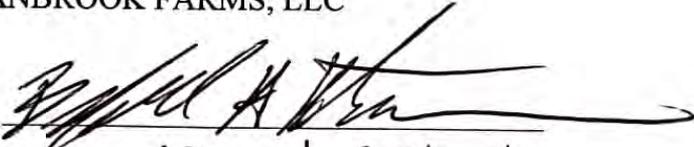
BY: _____
 CHARLES GUNNARSON
 Chief Legal Counsel

DATE: _____

DATE: _____

FOR THE RESPONDENT:

CRANBROOK FARMS, LLC

BY: 

Name: Bradford A. Hartman

Title: Manager

Date: 12-8-21

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**AGREED FIRST MODIFICATION TO
STIPULATION AND PROPOSAL FOR SETTLEMENT**

ATTACHMENT A

STIPULATION AND PROPOSED SETTLEMENT

SERVICE LIST

Melissa S. Brown
Jennifer M. Martin
Heplerbroom, LLC
4340 Acer Grove Drive
Springfield, IL 62711
Jennifer.Martin@heplerbroom.com
melissa.brown@heplerbroom.com

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street Suite 11-500
Chicago, Illinois 60601
312.814.8917
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of March 20, 2020, the attached Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement via electronic mail to the persons identified on the service list.

/s/ Nancy J. Tikalsky

NANCY J. TIKALSKY, AAG
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-8567
Primary e-mail: ntikalsky@atg.state.il.us
Secondary e-mail: mcacaccio@atg.state.il.us

Date: March 20, 2020

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2018), moves that the Illinois Pollution Control Board ("Board") grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations on the South Farm of Sections 12(a) and (d) of the Act, 415 ILCS 5/12(a) and (d) (2018), and Section 501.404(c)(2) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(2). In addition, the Stipulation proposes to release violations on the North Farm that occurred on or about December 2018 of Sections 12(a) and (d) of the Act, 415 ILCS 5/12(a) and (d) (2018), and Sections 501.401(d), 501.404(c)(2) and (3), 501.405(a) and 580.105(a) of the Board regulations, 35 Ill. Adm. Code 501.401(d), 501.404(c)(2) and (3), 501.405(a) and 580.105(a).
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2018).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Nancy J. Tikalsky
NANCY J. TIKALSKY
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-8567
ntikalsky@atg.state.il.us

DATE: March 20, 2020

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 Complainant,)
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 v.) 2017 PCB 19
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 CRANBROOK FARMS, LLC, an)
 Illinois limited liability company,)
)
 Respondent.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and CRANBROOK FARMS, LLC (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2018), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On November 22, 2018, a Complaint was filed on behalf of the People of the State of Illinois by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2018).

3. At all times relevant to the Complaint, Respondent was and is an Illinois limited liability corporation that is authorized to transact business in the State of Illinois ("Cranbrook"). Cranbrook owns and operates a swine wean-to-finish facility with a business location of 21334 Illinois Highway 78, Annawan, Henry County, Illinois ("Facility"). The Facility includes two separate operating farms located at:

- a. 21334, Illinois Highway 78, Annawan, Henry County, Illinois ("South Farm"); and
- b. 28414 North 2200 Avenue, Annawan, Henry County, Illinois, ("North Farm")

4. At the South Farm, the Respondent operates two outdoor waste storage lagoons ("South Lagoon" and "North Lagoon") and a livestock waste storage deep pit under a new building ("New Building Deep Pit"), which the Illinois EPA observed during inspections performed on November 20, 2009, March 13, 2012, September 15, 2014, and August 20, 2015.

5. At the North Farm, the Respondent operates a single outdoor anaerobic lagoon ("Anaerobic Lagoon"), which the Illinois EPA observed during inspections performed on December 28, 2018 and January 4, 2019.

6. Respondent has notified Complainant that it intends to sell the Facility through auction on or about March 23, 2020.

B. Allegations of Non-Compliance

1. Complaint Violations on South Farm. Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: Water Pollution

Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

Count II: Water Pollution Hazard

Violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

Count III: Handling and Storage of Livestock Waste

Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 501.404(c)(2) of the Board regulations, 35 Ill. Adm. Code 501.404(c)(2).

2. Additional Violations on North Farm not alleged in the Complaint:

Water Pollution

Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

Water Pollution Hazard

Violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

Handling of Livestock Waste

Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Sections 501.401(d), 501.404(c)(2) and (3), and 501.405(a) of the Board regulations, 35 Ill. Adm. Code 501.401(d), 501.404(c)(2) and (3), and 501.405(a).

Failure to Report Release of Livestock Waste

Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 580.105(a) of the Board regulations, 35 Ill. Adm. Code 580.105(a);

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested

litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

South Farm

1. In late 2014, Respondent ceased discharging livestock waste from its five shallow-pit confinement buildings into the South Lagoon and North Lagoon. The livestock waste from the five shallow-pit buildings is discharged to the New Building Deep Pit.
2. Respondent has been removing livestock waste from the New Building Deep Pit and land applies the material which ensures its storage capacity.
3. Respondent has been monitoring and recording the freeboard weekly in the North Lagoon, South Lagoon and New Building Deep Pit.

North Farm

4. In January 2019, Respondent removed the livestock waste material from the ground that was discharged from the Anaerobic Lagoon in December 2018.
5. In January 2019, Respondent installed an accurate freeboard marker in the Anaerobic Lagoon.
6. From February 2019 through November 2019, Respondent submitted monthly reports to the Illinois EPA containing the weekly freeboard level of the Anaerobic Lagoon.
7. On April 8, 2019, Respondent submitted a Short-Term Plan for Livestock Waste Management and a Long-Term Plan for Livestock Waste Management to the Illinois EPA. Illinois EPA found both plans to be satisfactory.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2018).

The Respondent shall notify each contractor to be retained to perform work required in this Stipulation of each of the requirements of this Stipulation relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation to each contractor already retained no later than thirty (30) calendar days after the date of entry of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by this Stipulation.

No change in ownership, corporate status or operator of the Facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event that the Respondent proposes to sell or transfer any real property or operations subject to this Stipulation, the Respondent shall notify the Complainant thirty (30) calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the Facility or a portion thereof. The Respondent shall make as a condition of any such sale or transfer, that the purchaser

or successor provide to Respondent site access and all cooperation necessary for Respondent to perform to completion any compliance obligation(s) required by this Stipulation. The Respondent shall provide a copy of this Stipulation to any such successor in interest and the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation. In appropriate circumstances, however, the Respondent and a proposed purchaser or operator of the Facility may jointly request, and the Complainant, in its discretion, may consider modification of this Stipulation to obligate the proposed purchaser or operator to carry out future requirements of this Stipulation in place of, or in addition to, the Respondent. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable Facility permits.

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment are threatened by the discharge of livestock waste from Respondent's storage lagoons onto the ground and into the area soil and groundwater.
2. Respondent's Facility is currently operational as a swine wean-to-finish Facility with a capacity of 7,300 swine. Livestock production carries both social and economic value.
3. Respondent's Facility was not suitable for its activity as it was constructed and operated—i.e., using sand lagoons for livestock waste storage. Upon completion of the measures agreed to and specified in this Stipulation, Respondent's Facility will be suitable for its activity.
4. It is technically practicable and economically reasonable for Respondent to reduce and eliminate the discharges to soil, surface water and groundwater from its Facility.
5. Respondent has undertaken and will continue to undertake measures to address and correct the discharges from its livestock waste storage lagoons.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2018), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary

compliance with this Act by the respondent and other persons similarly subject to the Act;

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondent's Facility was purchased and taken over by its current owner and operator in 2006, and has been in violation of the Act since that time. The violations have been partially resolved as of November 2014, but will not be fully resolved until the Respondent's livestock waste storage lagoons at the south Farm are dredged and waste management practices are in place at the Facility.

2. On the South Farm, Respondent was not initially diligent in attempting to come into compliance with the Act and Board regulations when the Illinois EPA originally notified Respondent of its noncompliance. Since November 2014, when the Attorney General initiated negotiations in this enforcement action, Respondent has been more diligent in coming into compliance. On the North Farm, Respondent was diligent in coming into compliance with the Act and Board regulations when the Illinois EPA originally notified Respondent of its noncompliance.

3. The civil penalty does not take into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance, due to an inability to pay determination.

4. Complainant has determined, based upon the specific facts of this matter that a penalty of One thousand, Five hundred dollars (\$1,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act. However, in September 2019, the Illinois EPA referred additional violations that occurred in December 2018 relating to discharges of livestock waste from the anaerobic lagoon on the North Farm onto the ground.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was proposed by Respondent, but rejected by the Illinois EPA.

V. TERMS OF SETTLEMENT

A. Penalty Payment

The Respondent shall pay a civil penalty in the sum of One thousand, Five hundred dollars (\$1,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Stipulated Penalties, Interest, and Default

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall

provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$100.00 per day until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

3. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

4. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau North
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, IL 60602

D. Future Compliance

If Respondent owns or operates the Facility, it shall comply with paragraphs 1 and 2 of this Section V.D. If Respondent sells the Facility, it shall comply with paragraphs 1. c. and d. of this Section V.D, subject to Section II (APPLICABILITY).

1. SOUTH FARM:

- a. Beginning as of the date the Board adopts and accepts this Stipulation and continuing for two (2) years thereafter, Respondent shall monitor and record weekly to the nearest inch the freeboard in the New Building Deep Pit. Respondent shall submit these records to the Illinois EPA on a quarter-yearly basis with the first report due fifteen (15) days after the end of the first complete calendar year quarter after the Board adopts and accepts this Stipulation.

- b. Within one hundred twenty (120) days from the date the Board adopts and accepts this Stipulation, Respondent shall submit a Comprehensive Nutrient Management Plan ("CNMP") for the South Farm to reflect its waste-handling practices consistent with Subtitle E of Title 35 of the Illinois Administrative Code. The CNMP is to include Respondent's schedule for regularly removing and land-applying waste from the New Building Deep Pit on the South Farm in order to maintain the storage capacity of this pit.
- c. By January 1, 2022, Respondent shall complete the dewatering and removal of all manure sludge and solids from the South Lagoon and the North Lagoon on the South Farm per Illinois EPA oversight and approval as follows:
 - i) Beginning as of the date the Board adopts and accepts this Stipulation, Respondent shall provide monthly written and photographic documentation of its progress to the Illinois EPA, within 10 days of the end of each month; and
 - ii) at least two (2) weeks prior to sludge removal, Respondent shall notify the Illinois EPA of sludge removal; and
- d. By February 1, 2022, Respondent shall submit a final report to the Illinois EPA that demonstrates Respondent has completed the activities required by paragraph V.D.2.c.

2. NORTH FARM:

Upon entry of this Stipulation, Respondent shall implement the Long-Term Plan for Management of Livestock Waste for the North Farm attached hereto as Exhibit A.

3. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's Facility, which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

4. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

5. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$1,500.00 penalty, its commitment to cease and desist as contained in Paragraph V.D.5 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint and the Additional Violations alleged in Section I.B.2 herein. The release set forth above does not extend to any matters other than those expressly specified in the Complaint filed on November 22, 2018 and the Additional Violations alleged in Section I.B.2 herein. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or

in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), or entity other than the Respondent.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this

Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau North
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, IL 60602

Amanda Kimmel
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Jennifer M. Martin
Hodge, Dwyer & Driver
3150 Roland Avenue
Springfield, Illinois 62703

Bradford Hartmann
1311 Cranbrook Circle
Aurora, Illinois 60502

G. Force Majeure

1. *Force majeure* is an event arising solely beyond the control of the Respondent, which prevents the timely performance of any of the requirements of this Stipulation and shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters, and

labor disputes beyond the reasonable control of the Respondent. An increase in costs associated with implementing any requirement of this Stipulation shall not, by itself, excuse the Respondent for a failure to comply with such a requirement.

2. When a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Stipulation, the Respondent shall orally notify the Illinois.EPA (Amanda S. Kimmel, Assistant Counsel: 217.785.0124) within forty-eight (48) hours of the occurrence. Written notice shall be given to the Complainant's representatives as listed in Section V.F of this Stipulation as soon as practicable, but no later than ten (10) calendar days after the claimed occurrence. This section shall be of no effect as to the particular event involved if the Respondent fails to comply with these notice requirements.

3. Within ten (10) calendar days of receipt of any written *force majeure* notice, the Complainant shall respond in writing regarding the Respondent's claim of a delay or impediment to performance. If the Complainant agrees that the delay or impediment to performance has been or will be caused by circumstances beyond the control of the Respondent and that the Respondent could not have prevented the delay by the exercise of due diligence, the parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay, by a period equivalent to the delay actually caused by such circumstances. Such stipulation may be filed as a modification to this Stipulation. The Respondent shall not be liable for stipulated penalties for the period of any such stipulated extension.

4. If the Complainant does not accept the Respondent's claim of a *force majeure* event, the Respondent must file a petition with the Board within twenty (20) calendar days of receipt of the Complainant's determination in order to contest the imposition of stipulated penalties. The Complainant shall have twenty (20) calendar days to file its response to said

petition. The burden of proof of establishing that a *force majeure* event prevented the timely performance shall be upon the Respondent. If this Board determines that the delay or impediment to performance has been or will be caused by circumstances solely beyond the control of the Respondent and that the Respondent could not have prevented the delay by the exercise of due diligence, the Respondent shall be excused as to that event (including any imposition of stipulated penalties), for all requirements affected by the delay, for a period of time equivalent to the delay or such other period as may be determined by this Court.

H. Enforcement and Modification of Stipulation

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section V.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

I. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

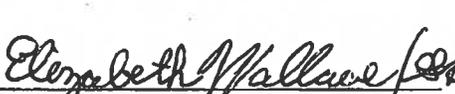
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

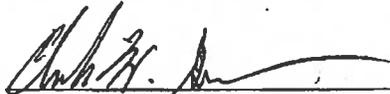
PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Acting Chief Legal Counsel

DATE: _____

DATE: 3/20/2020

CRANBROOK FARMS, LLC

Its: _____
[Title of Signatory]

DATE: _____

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL
Attorney General of the
State of Illinois

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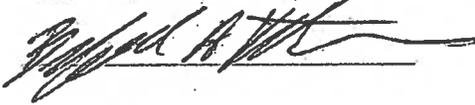
BY: _____
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

BY: _____
CHARLES W. GUNNARSON
Acting Chief Legal Counsel

DATE: _____

DATE: _____

CRANBROOK FARMS, LLC



Its: Manager
[Title of Signatory]

DATE: 3/20/2020

CRANBROOK FARMS, LLC – NORTH FARM
IEPA No. W073800002
Annawan, Henry County, Illinois

LONG-TERM PLAN FOR MANAGEMENT OF LIVESTOCK WASTE

Cranbrook Farms, LLC operates a wean-to-finish swine operation known as Cranbrook North located in Alba Township, Henry County, Illinois. Cranbrook North consists of one Nursery Barn confinement structure (40' x 160') that holds 1500 head of nursery pigs and a Finisher Barn confinement structure (50' x 300') that holds 1500 head of finisher pigs.

A. Available Storage Capacity

Both the Nursery Barn and the Finisher Barn have underfloor pull plug pit systems that drain into an anaerobic lagoon. The Nursery Barn pit is 2.5' deep and has a capacity of 126,000 gallons. The Finisher Barn pit is 3' deep and has a capacity of 330,000 gallons. The anaerobic lagoon (250' x 375') has a total capacity of approximately 4.5 million gallons and a storage period of 180 days.

B. Anticipated Livestock Waste Production

Storage	Animals	Waste Produced (gal/day)	Capacity (gal)	Storage Days
Nursery Pit	1500	1800	126,000	70
Finisher Pit	1500	1800	330,000	185

C. Available Acreage for Land Application of Livestock Waste

Nearby pastureland owned by Cranbrook Farms and Vandernick Farms is available for land application. The available land includes:

- 110 acres owned by Cranbrook Farms.
- 600 acres owned by Vandernick Farms.

D. Land Application and Equipment

Livestock waste is transferred from the anaerobic lagoon for land application using a vacuum truck and all waste is applied using knife injection. Livestock waste application will be performed by third party contractors, and the application equipment is owned by the third party application companies. All livestock waste application should be performed in the Spring or the Fall. No livestock waste application shall occur within 200 feet of surface water or within 150 feet of potable water supply wells.



Contact Information for Manure Application:

JT Pumpers
Travis Hochstetter
(940) 465-4565

E. Freeboard Levels

Freeboard levels (to the nearest inch) must be recorded on a weekly basis and two feet of available freeboard must be maintained in the lagoon at all times. See Attachment A, Freeboard Records. Scheduling of livestock waste application must be done to maintain two feet of available freeboard in the lagoon. Current and new Cranbrook employees will receive training regarding minimum freeboard levels, weekly recording, and monthly reporting to prevent unintentional overflows and to safeguard against intentional overflows from the North Farm lagoon.

Freeboard records must be submitted by the 5th day of the following month to:

Illinois Environmental Protection Agency
Bureau of Water
412 Southwest Washington Street
Suite D
Peoria, Illinois 61602
Fax: 309.671.3024
Email: todd.bennett@illinois.gov and/or paul.jungles@illinois.gov

Freeboard reports must be submitted to Illinois EPA on a monthly basis until Illinois EPA provides notification to cease reporting.

F. Release Reporting

Releases of livestock waste that exceed 25 gallons and occur outside of normal land application operations must be reported within 24 hours of discovery to the Illinois Environmental Protection Agency through the Illinois Emergency Management Agency (IEMA) by calling 1-800-782-7860. Any release to surface waters must be reported immediately to IEMA.

G. Change of Management Personnel

Changes in management personnel at Cranbrook North must be reported to the Illinois EPA Peoria Regional Office within 15 days of such change, including the name and telephone number(s) of the new manager:

Illinois EPA Peoria Regional Office
412 SW Washington Street
Suite D
Peoria, Illinois 61602
(309) 671-3022

