

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2023-
)	(Enforcement-Water)
K.D. CRAIN & SONS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See 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 following Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements, copies which are attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

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

By: /s/Bridget I. Flynn
Bridget I. Flynn, #6332314
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
Office: (217) 782-9033
Cell: (312) 848-5254
Briget.Flynn@ilag.gov

Date: June 7, 2023

Service List

For the Respondent

K.D. Crain & Sons, Inc.
c/o Daniel Crain, President
13751 Prosperity Road
Johnston City, IL 62951
via certified mail

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
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v.)	PCB 2023 -
)	(Enforcement – Water (NPDES))
K. D. CRAIN AND SONS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent, K. D. CRAIN & SONS, INC., an Illinois corporation, as follows:

COUNT I
FAILURE TO SUBMIT DISCHARGE MONITORING REPORTS

1. This Count is brought by the Attorney General on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

2. Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2020), and charged, *inter alia*, with the duty of enforcing the Act. Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) permit program under Section 402(b)(7) of the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342(b)(7).

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2020), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. At all times relevant to this Complaint, the Respondent, K.D. CRAIN AND SONS, INC. (“KD CRAIN” or the “Respondent”) has been an Illinois corporation licensed by the Illinois Secretary of State to do business in the State of Illinois. KD CRAIN operates a coal mining services facility (“Facility”).

5. On July 5, 2013, the Illinois EPA issued KD CRAIN NPDES Permit No. IL0079626 (“NPDES Permit”), authorizing discharges of Alkaline Mine Drainage from the Facility’s outfall to Delta Creek. This permit expired on June 30, 2018, but is administratively continued pursuant to KD Crain’s submission of a timely renewal application.

6. The NPDES Permit provides NPDES coverage for the following facility:

K.D. Crain & Sons, Inc.
Southern Delta Mine
Approx. 12 miles east of Marion, Illinois
(Williamson and Saline Counties)

7. The Facility has only one outfall, Outfall 015, which discharges into Delta Creek.

8. Special Condition 3 of the NPDES Permit provides as follows:

All periodic monitoring and reporting forms, including Discharge Monitoring Report (DMR) forms, shall be submitted to the Agency according to the schedule outlined in Special Condition No. 4 or 5 below with one (1) copy forwarded to each of the following addresses:

Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 N. Grand Ave., East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Environmental Protection Agency
Mine Pollution Control Program
2309 West Main Street, Suite 116
Marion, Illinois 62959

Attn: Compliance Assurance Section

Should electronic filing be available and elected for any periodic monitoring and reporting requirements, the Agency shall be notified via correspondence or e-mail at such time that the electronic filing has been completed.

9. Special Condition 4 of the NPDES permit provided as follows:

Completed Discharge Monitoring Report (DMR) forms and stream monitoring results, shall be retained by the Permittee for a period of three (3) months and shall be mailed and received by the IEPA at the addresses indicated in Special Condition No. 3 above in accordance with the following schedule, unless otherwise specified by the permitting authority.

Period	Received by IEPA
January, February, March	April 15
April, May, June	July 15
July, August, September	October 15
October, November, December	January 15

The Permittee shall record discharge monitoring results on Discharge Monitoring Report forms (DMR's) using one such form for each applicable Discharge Condition each month.

10. The reporting requirements detailed in paragraph 9 remained in effect until Illinois EPA changed those reporting requirements on June 8, 2022. The new reporting requirements took effect on that same date.

11. KD Crain failed to submit DMRs to Illinois EPA for the months of October 2020 through September 2021.

12. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any state so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

13. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides as follows:

No person shall:

(f) Cause, threaten, or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board of any order adopted by the Board with respect to the NPDES program.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

15. The Respondent is a corporation and is therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

17. Alkaline Mine Drainage which the Company discharged from Outfall 015 at the Facility is a “contaminant,” as defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

18. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

19. Delta Creek is a “water” as defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).

20. Section 305.102(b) of the Board Regulations, 35 Ill. Adm. Code 305.102(b), provides as follows:

(b) Every holder of an NPDES (National Pollutant Discharge Elimination System) permit is required to comply with the monitoring, sampling, recording and reporting requirements set forth in the permit and this Chapter.

21. Section 309.102(a) of the Board Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

(a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

22. Section 401.11(d) of the Code of Federal Regulations (“C.F.R.”), 40 C.F.R. 401.11(d), provides as follows:

The term point source means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

23. Outfall 015 is a “point source,” within the meaning of 40 C.F.R. 401.11(d) and Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).

24. By continuing to discharge Alkaline Mine Drainage from the Facility despite failing to submit discharge monitoring reports as its NPDES Permit required for the months of October

2020 through September 2021, Respondent caused, threatened, or allowed discharges from the Facility into waters of the State of Illinois in violation of its NPDES Permit, thereby violating Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), Sections 305.102(b) and 309.102(a) of the Board Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a), and Special Conditions 3 and 4 of the NPDES Permit.

25. By causing, threatening, or allowing discharges from the Facility into waters of the State of Illinois so as to violate regulations or standards adopted by the Board, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an Order against the Respondent, KD CRAIN, on this Count I, as follows:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2020); Sections 305.102(b) and 309.102(a) of the Board Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a); and Special Conditions 3 and 4 of the NPDES Permit;

C. Ordering the Respondent to cease and desist from any future violations of Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2020); Sections 305.102(b) and 309.102(a) of the Board Regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a); and Special Conditions 3 and 4 of the NPDES Permit;

D. Assessing against the Respondent a civil penalty no greater than the maximum penalties set forth in Sections 42(a) and 42(b)(1) of the Act, 415 ILCS 5/42(a) and 42(b)(1) (2020);

E. Ordering the Respondent to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Ordering such other and further relief as this Board deems appropriate and just.

Respectfully Submitted,

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

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

By: /s/ Andrew Armstrong
ANDREW B. ARMSTRONG, Chief
Environmental Bureau/Springfield
Assistant Attorney General
ARDC #6282447

Bridget I. Flynn
Assistant Attorney General
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
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Complainant,)	
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v.)	PCB No.
)	(Enforcement – Water)
K. D. CRAIN & SONS, INC.,)	
an Illinois corporation,)	
)	
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 Respondent, K. D. CRAIN & SONS, INC., an Illinois corporation, (“KD Crain” or “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 any injunctive 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.* (2020), 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. Concurrently with this Stipulation, 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 (2020), 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 (2020).

3. At all times relevant to the Complaint, Respondent has been and is an Illinois corporation, licensed by the Illinois Secretary of State to do business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent operated a coal mining services facility located at Southern Delta Mine, approximately 12 miles east of Marion, Williamson County, Illinois (“the Facility”).

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board Regulations:

Count I: Failure to Submit Discharge Monitoring Reports
Sections 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f)(2020),
and Sections 305.102(b) and 309.102(a) of the Board Regulations,
35 Ill. Adm. Code 305.102(b) and 309.102(a)

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced above.

D. Compliance Activities to Date

On December 8, 2020, the Respondent submitted Discharge Monitoring Reports (“DMRs”) for the second and third quarters of 2020.

As of the date of the filing of this Stipulation, the Respondent has not submitted DMRs for the fourth quarter of 2020, nor for the first, second or third quarters of 2021. The Respondent is no longer expected to submit those DMRs as the Respondent did not collect the relevant data which the DMRs require.

On January 4, 2022, the Respondent timely submitted DMRs for the fourth quarter of 2021. The Respondent has timely submitted the required DMRs since that submission.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent waives 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 (2020).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), 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. The Illinois EPA's information gathering responsibilities were hindered by Respondent's violations thereby threatening human health and the environment.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Timely submission of DMRs for the Facility is both technically practicable and economically reasonable.
5. As of January 4, 2022, Respondent returned to timely submissions of DMRs in compliance with the Act and Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), provides as follows:

In determining the appropriate civil penalty to be imposed under...this Section, the Board is authorized to consider any matter 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 the requirements of this Act and regulation 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 failed to timely submit DMRs from October 2020 to September 2021. On December 8, 2020, the Respondent submitted DMRs for the second and third quarters of 2020, which were approximately 146 days and 54 days late, respectively. Respondent failed to submit DMRs for 12 months. Respondent is incapable of submitting the missing DMRs after the fact as Respondent did not complete the required sampling necessary to obtain the information needed to have been reported on those missing DMRs.

2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, even after the Illinois EPA notified Respondent of its non-compliance.

3. The civil penalty takes into account any economic benefit Respondent realized as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specified facts of this matter, that civil penalties of Six Thousand Five-Hundred Dollars (\$6,500) 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.

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 not at issue in this matter.

V. TERMS OF SETTLEMENT

A. Penalty Payment

Respondent shall pay a civil penalty of SIX THOUSAND and FIVE HUNDRED Dollars (\$6,500) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If Respondent fails to make any payment this Stipulation requires on or before the date upon which the payment is due, 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, Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2020), interest shall accrue on any penalty amount which the Respondent owes and has 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 the Respondent makes partial payment on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. The Respondent shall make all payments this Stipulation requires 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, IL 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:

Bridget I. Flynn
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 S. Second Street
Springfield, Illinois 62701-1705

D. Future Compliance

1. 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.

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

3. Respondent shall ensure that all future DMRs are timely submitted in compliance with the terms and conditions of the Facility's National Pollutant Discharge Eliminations System ("NPDES") Permit No. IL0079626.

4. 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 Facility at all reasonable times for the purposes of inspections and evaluations of 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.

E. Release from Liability

In consideration of the Respondent's payment of the \$6,500 penalty, its commitment to cease and desist as contained in Section V.D.2 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 herein. The release set forth above does not extend to any matters other than those expressly specified in the Complaint filed contemporaneously with this Stipulation. 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 violations of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damages 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(2020), or entity other than the Respondent.

F. Enforcement of Stipulation

Upon 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.

G. Notice and Public Comment

After all Parties to the Stipulation sign this Stipulation but prior to the Board's entry of same, the Board shall publish notice of this Stipulation for a period of not less than thirty (30) days for public notice and comment prior to the Board's acceptance of the Stipulation. If any member of the public submits a comment to the Board, the Complainant reserves the right to withdraw or withhold its consent prior to the Board's entry if the comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper, or inadequate. The Respondent consents to the entry of this Stipulation without further notice and

agrees not to withdraw from or oppose the entry of this Stipulation or to challenge any provision of the Stipulation unless the Complainant has notified the Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event the Complainant notifies Respondent that it withdraws or withholds its consent for the Stipulation, then neither of the Parties to the Stipulation may use the terms of the agreement as evidence in any litigation between those entities.

H. Execution of Stipulation

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

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the parties, by their representatives, enter into this Stipulation and submit it to this Board that it may be approved and entered.

AGREED:


FOR THE COMPLAINANT:

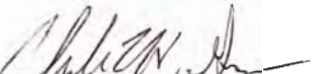
PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL
Attorney General of the
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
RACHEL R. MEDINA
Deputy Bureau Chief
Assistant Attorney General
Environmental Bureau

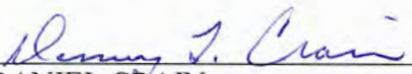
BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 6-7-23

DATE: 5/26/23

FOR THE RESPONDENT:

K.D. CRAIN & SONS, INC.

By: 
DANIEL CRAIN
Its President

DATE: 4/21/2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB No. 2023-
)	(Enforcement – Water - NPDES)
K.D. CRAIN & SONS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

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) (2022), 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) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(a) and (f) of the Act, 415 ILCS 5/12(a) and (f) (2022), and Sections 305.102(b) and 309.102(a) of the Board’s regulations, 35 Ill. Adm. Code 305.102(b) and 309.102(a) (2022).
2. Complainant filed its Complaint contemporaneously with the Stipulation.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. 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) (2022).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this Motion for Relief from Hearing Requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2022).

Respectfully submitted,

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

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

By: /s/Bridget I. Flynn
Bridget I. Flynn, #6332314
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
Office: (217) 782-9033
Cell: (312) 848-5254
Briget.Flynn@ilag.gov

Dated: June 7, 2023

CERTIFICATE OF SERVICE

I, Bridget I. Flynn, an Assistant Attorney General, certify that on the 7th day of June, 2023, I caused to be served by U.S. Certified Mail, the foregoing Notice of Filing, Complaint, Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirements to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 500 South Second Street, Springfield, Illinois 62706.

By: /s/Bridget I. Flynn
Bridget I. Flynn, #6332314
Assistant Attorney General
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Illinois Attorney General's Office
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