

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. 24-17
)	(Land – Enforcement)
CRYSTAL COLD, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

To: *See Service List*

PLEASE TAKE NOTICE that on the 3rd day of October, 2024, the attached documents were filed with the Illinois Pollution Control Board, with true and correct copies attached hereto and which are hereby served upon you. The attached documents include the following:

- Notice of Filing
- Stipulation and Proposal for Settlement
- Motion for Relief from Hearing Requirement
- Service List and Certificate of Service

Respectfully submitted,

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

/s/ Natalie Long
NATALIE A. LONG #6309569
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62701
(217) 843-0572
Natalie.Long@ilag.gov

Dated: October 3, 2024

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. 24-17
)	(Enforcement – Land)
CRYSTAL COLD, 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 Crystal Cold, 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. (2022), 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 August 31, 2023, 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 (2022), 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 (2022).

3. At all times relevant to the Complaint, Respondent was and is an active limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated a refrigeration business located at 338N County Road 475 E, Arthur, Douglas County, Illinois, 61911 ("Facility" or "Site").

5. On November 18, 2019, an Illinois EPA Inspector performed a Resource Conservation and Recovery Act ("RCRA") Compliance Evaluation Inspection ("Inspection") to evaluate Respondent's status as a hazardous waste generator, and to determine if Respondent was complying with all hazardous waste regulatory requirements.

6. During the Inspection, Illinois EPA observed multiple unlabeled, undated plastic drums in the rear of the building filled with Ammonia Solution. Two of the drums were open. A representative of Respondent advised he did not know if the Ammonia Solution was removed as a hazardous waste. Manifests were unavailable for the previous disposal of Ammonia Solution.

7. During the Inspection, Illinois EPA observed eight metal drums of material that a representative of Respondent referred to as "solvent" ("Solvent"). The metal drums were rusty, undated, and inadequately labeled. A Material Safety Data Sheet for the Solvent was unavailable, and a representative of Respondent was unable to identify with specificity the contents of the drums containing Solvent. After speaking with the manufacturer of the Solvent, Illinois EPA determined that in its concentrated form prior to use, the Solvent is a caustic cleaner with a pH of

11.5. Illinois EPA further determined that Respondent's practice was to store the Solvent in its concentrated form prior to use; to dilute the Solvent for cleaning purposes; and to once more containerize the used Solvent in metal drums. At the time of the Inspection, Respondent had not determined if the used Solvent was a hazardous waste or a special waste.

8. At the time of the Inspection, Respondent was not performing weekly inspections of the waste accumulation area; Respondent did not have a designated emergency coordinator or plan for explosions, fires, or releases of hazardous wastes; Respondent had not made arrangements with local authorities for responses to emergencies; and Respondent did not have a permit for the storage of the Ammonia Solution or the used Solvent at the Site.

B. Allegations of Non-Compliance

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

Count I: Conducting a Hazardous Waste-Storage Operation without a Permit

Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2022), and Section 703.121 of the Board's RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121

Count II: Failure to Perform a Hazardous Waste Determination

Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2022), and Section 722.111 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111

C. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section I.B herein.

D. Compliance Activities to Date

1. On June 18, 2020, Respondent advised Illinois EPA that the following remediation activities had been implemented: labeling of containers storing hazardous waste, with the label indicating the contents of the containers and accumulation start date; closing all containers of hazardous waste during accumulation, except when necessary to add or remove waste; commencing weekly inspections of the containers and storage area; storing a reduced amount of hazardous waste onsite; scheduling a meeting with local authorities to make arrangements in the event of an emergency; and initiating the process of performing a hazardous waste determination regarding the used Solvent.

2. On October 9, 2020, Respondent submitted to Illinois EPA a Liquid Waste Management Plan ("LWMP"). The LWMP identified the waste materials at the Site to be the Ammonia Solution, consisting of a solution of 28% Anhydrous Ammonia and water, with minimal sodium chromate, stored in 55-gallon high density polyethylene ("HDPE") drums; and the used Solvent, a solution of T.C. 850-CW Super Concentrate Cleaner and water, stored in 55-gallon HDPE drums.

3. On October 9, 2020, the Respondent submitted a hazardous waste determination for the used Solvent, concluding that the used Solvent is a hazardous waste.

4. On January 24, 2024, Illinois EPA performed a compliance inspection of the Site. Illinois EPA determined that Respondent is a "Small Quantity Generator" of hazardous waste pursuant to Section 722.116 of the Board's Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.116 ("Section 722.116").

5. During its January 24, 2024 compliance inspection, Illinois EPA determined that Respondent was in compliance with Section 722.116, and therefore did not require a permit to store the hazardous waste at the Site.

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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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. Respondent's failure to perform a hazardous waste determination, and Respondent's conducting of a hazardous waste-storage operation without a permit, threatened 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, so long as it is operated in compliance with the Act and Board regulations.
4. Performing a hazardous waste determination for the used Solvent; submitting a liquid waste management plan; labeling the containers storing hazardous waste in a lawful manner; closing all containers of hazardous waste during accumulation, except when necessary to add or remove waste; performing weekly inspections of the containers and storage area; and making arrangements in the event of an emergency were technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2022), 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. The violations were first observed by Illinois EPA on or around November 18, 2019, and were resolved at various times in the following year.
2. Once the Illinois EPA notified Respondent of its noncompliance, Respondent worked to come back into compliance with the Act, Board regulations and applicable federal regulations.

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

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Respondent has previously adjudicated violations of the Act for water pollution, creation of a water pollution hazard, offensive discharges, violation of water quality standards, and open dumping of waste, which were resolved through a Stipulation and Proposal for Settlement accepted by the Board on April 15, 2021 in *People v. Crystal Cold, LLC*, PCB 21-057, requiring Respondent to pay a civil penalty of \$12,500 and cease and desist from future violations.

6. Respondent did not self-disclose 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

1. The Respondent shall pay a civil penalty in the sum of TWENTY-FIVE THOUSAND Dollars (\$25,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. 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.

2. 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.

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:

Natalie Long
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
Natalie.Long@ilag.gov

D. Future Compliance

1. 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.

2. 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.

3. Respondent shall at all times comply with Section 722.116 requirements for a small quantity generator.

4. 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 \$25,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 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 Complainant's Complaint filed on August 31, 2023. 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, 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

Natalie Long
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 843-0572
Natalie.Long@ilag.gov

Sara Samson
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East

P.O. Box 19276
Springfield, Illinois 62794-9276
Sara.Samson@illinois.gov

Dustin Burger
Working Supervisor
Bureau of Land
Field Operation Section
Illinois Environmental Protection Agency
2125 South First Street
Champaign, IL 61820
dustin.burger@illinois.gov

As to the Respondent
Dylan Grady
Brown, Hay & Stephens, LLP
205 South Fifth Street
Springfield, Illinois 62704
dgrady@bhslaw.com

Crystal Cold, LLC
c/o Homer Miller
338 N. CR 475 E
Arthur, Illinois 61911

G. Enforcement of Stipulation

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.

H. 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.

MAY/02/2024/THU 08:55 AM

FAX No.

P. 014

CR10RD \$125,000.00

PLB-24-17 (#574822)

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 ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

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

JOHN KIM, Director
Illinois Environmental Protection Agency

BY: _____
ANDREW B. ARMSTRONG, Chief
Assistant Attorney General
Environmental Bureau

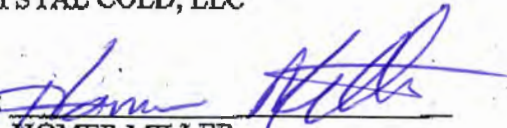
BY: _____
CHARLES GUNNARSON
Chief Legal Counsel

DATE: _____

DATE: _____

RESPONDENT

CRYSTAL COLD, LLC

BY: 
HOMER MILLER
President

DATE: 5-9-24

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

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

KWAME RAOUL
Attorney General
State of Illinois

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

JAMES JENNINGS, Interim Director
Illinois Environmental Protection Agency

BY: 
RACHEL MEDINA,
Deputy Bureau Chief
Environmental Bureau
Assistant Attorney General

BY: 
ANDREW ARMSTRONG
Chief Legal Counsel

DATE: 8/27/24

DATE: 08/20/2024

RESPONDENT

CRYSTAL COLD, LLC

BY: _____
HOMER MILLER
President

DATE: _____

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 24-17
)	(Land – Enforcement)
CRYSTAL COLD, LLC,)	
an Illinois limited liability company,)	
)	
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 Sections 21(f)(1) and 21(f)(2) of the Act, 415 ILCS 5/21(f)(1) and 21(f)(2) (2022), Section 703.121 of the Board’s RCRA Permit Program Regulations, 35 Ill. Adm. Code 703.121, and Section 722.111 of the Board’s Hazardous Waste Operating Requirements, 35 Ill. Adm. Code 722.111.

2. Complainant filed its Complaint on August 31, 2023.

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,
KWAME RAOUL, Attorney General of the State of
Illinois

By: s/Natalie Long
NATALIE LONG, #6309569
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 843-0572
Natalie.Long@ilag.gov

DATE: October 3, 2024

Service List

Don Brown
Assistant Clerk
Illinois Pollution Control Board
100 W. Randolph Street
Suite 11-500
Chicago, IL 60601
Don.Brown@illinois.gov
(by *electronic filing*)

Crystal Cold, LLC
c/o Kenneth E. Hostetler, Registered Agent
220 North CR 425 East
Arcola, IL 61910
(by *certified U.S. Mail*)

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274
Carol.Webb@illinois.gov
(by *email*)

CERTIFICATE OF SERVICE

I, Natalie Long, an Assistant Attorney General, certify that on the 3rd day of October, 2024, I caused to be served the foregoing Notice of Filing, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement, Service List, and Certificate of Service on the parties named on the attached Service List, by certified U.S. Mail, e-mail or electronic filing, as indicated on the attached Service List.

/s/ Natalie Long
NATALIE LONG
Assistant Attorney General

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

By: /s/ Natalie Long
NATALIE LONG
Assistant Attorney General

NATALIE LONG
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62701
ARDC No.: 6309569

Telephone: (217) 843-0572
Facsimile: (217) 524-7740
E-mail: Natalie.Long@ilag.gov