

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. _____
)	(Water – Enforcement)
CRYSTAL COLD, LLC,)	
an Illinois limited liability company,)	
)	
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, a copy of which is 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/Natalie Long
NATALIE LONG
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 782-9034
nlong@atg.state.il.us
ebs@atg.state.il.us
ARDC No. 6309569

Date: February 8, 2021

THIS FILING IS SUBMITTED ON RECYCLED PAPER

Service List

For the Respondent

Crystal Cold, LLC
c/o Brown, Hay & Stephens, LLP
Attn: Ms. Claire Manning
205 S. Fifth Street
Springfield, Illinois 62704
cmanning@bhslaw.com

Crystal Cold, LLC
c/o Kenneth E. Hostetler
220 N. CR 425 E
Arcola, Illinois 61910

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondent, CRYSTAL COLD, LLC, an Illinois limited liability company, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought 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 at the request of the Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018).

2. The Illinois EPA is an administrative agency of the State of Illinois created by the Illinois General Assembly pursuant to Section 4 of the Act, 415 ILCS 5/4 (2018), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, CRYSTAL COLD, LLC (“Respondent”), at all times relevant to this Complaint, was and is an active limited liability company organized and existing under the laws of the State of Illinois and in good standing with the Illinois Secretary of State.

4. At all times relevant to this Complaint, Respondent was and is the owner and operator of a refrigeration business located at 338N County Road 475E, Arthur, Douglas County, Illinois, 61911 (“Site”). The parcel number for the property is 02-07-35-200-02300.

5. Respondent operates a business at the Site that alters refrigerator and freezer units to run on propane or natural gas, and serves the Amish community and other customers.

6. The managers for Respondent are Homer L. Miller and Kenneth E. Hostetler.

7. On information and belief, Respondent installed a buried sand filter system (“Filtration System”) for the disposal of sewage in 2004 at the Site. Sewage from the Filtration System was routed through a discharge pipe (“Pipe”) to a ditch alongside Illinois Route 133 (“IL-133”).

8. On October 4, 2018, an Illinois EPA Inspector (“Inspector”) conducted a Site inspection. Upon arriving at the Site, the Inspector spoke with a representative of Respondent. During their conversation, the representative admitted to the Inspector that Respondent had been discharging a solution that was one-third ammonia into the ditch alongside IL-133.

9. During the Site inspection, the Inspector examined the Pipe from the Filtration System, situated in the north berm of the ditch alongside IL-133. The Inspector observed a pool of yellow water below the Pipe, located roughly 400 feet west of the intersection of IL-133 and 475 E. Road, as well as a slow drip from the Pipe.

10. Upon observing the pool of yellow water, the Inspector used an ammonia test kit to verify the presence of ammonia nitrogen in concentrations that exceeded 3.0 milligrams per liter (“mg/L”).

11. After testing the discharge from the Pipe, the Inspector spoke with the owner of Crystal Cold, Homer Miller (“H. Miller”). H. Miller indicated that wastewater from the Site passes through the Filtration System prior to discharge.

12. That same date, the Inspector observed that Respondent was in the process of installing a new plastic corrugated pipe (“New Pipe”) to direct wastewater from the Filtration System westward to a tributary of the Kaskaskia River. At the time of the Site inspection on October 4, 2018, the New Pipe was not discharging.

13. On October 5, 2018, the Inspector returned to the Site.

14. During the Site inspection on October 5, 2018, the Inspector visited the New Pipe, which was now discharging wastewater, directed to a tributary of the Kaskaskia River. The Inspector collected a sample of the discharge. The Inspector also visited the original Pipe, and collected a sample of the discharge, which was still yellow, situated below the Pipe. There was not an active discharge from the original Pipe at that time.

15. Following the October 5, 2018 Site inspection, Illinois EPA analyzed the two samples collected from the original Pipe and the New Pipe. The sample collected from the original Pipe contained 31.9 mg/L of ammonia nitrogen. The sample collected from the New Pipe contained 330 mg/L of ammonia nitrogen.

16. On October 22, 2018, Respondent reported to Illinois EPA that it was collecting its wastewater for offsite disposal.

17. On March 13, 2019, Respondent notified Illinois EPA that it was no longer discharging ammonia, and was instead storing ammonia in barrels to be picked up by a contractor for lawful disposal.

18. Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), 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.

19. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides as follows:

“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.

20. Respondent is an Illinois limited liability company. Because Respondent is an Illinois limited liability company, Respondent is a “person” as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides as follows:

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

22. Ammonia is a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2018).

23. Section 3.545 of the Act, 415 ILCS 5/3.545 (2018), provides as follows:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

24. Section 3.550 of the Act, 415 ILCS 5/3.550 (2018), provides as follows:

“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.

25. The ditch alongside IL-133, the tributary of the Kaskaskia River, and the Kaskaskia River, are accumulations of water, surface or underground, natural or artificial, public

or private, which are wholly or partially within, or flow through, or border upon the State of Illinois, and are therefore “waters” as that terms is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2018).

26. Respondent’s discharges of ammonia into the ditch alongside IL-133 and the tributary of the Kaskaskia River caused, threatened, or allowed such waters to be rendered harmful or detrimental or injurious to (a) public health, safety or welfare; (b) domestic, commercial, industrial, agricultural, recreational, or other legitimate uses; or (c) livestock, wild animals, birds, fish, or other aquatic life, and therefore constitutes “water pollution” as that term is defined by 415 ILCS 5/3.545 (2018).

27. By causing, threatening, or allowing the discharge of contaminants into the environment so as to cause water pollution, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018);

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

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

COUNT II
WATER POLLUTION HAZARD

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 31 of Count I, as paragraphs 1 through 31 of this Count II.

32. Section 12(d) of the Act, 415 ILCS 5/12(d) (2018), provides as follows:

No person shall:

* * *

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

33. Respondent's discharge of ammonia into the ditch alongside IL-133, and into the tributary to the Kaskaskia River, created a water pollution hazard at the time of the discharge.

34. By creating a water pollution hazard, Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

C. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2018);

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

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

COUNT III
OFFENSIVE DISCHARGES

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 31 of Count I, as paragraphs 1 through 31 of this Count III.

32. Section 301.275 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 301.275, provides as follows:

Effluent means any wastewater discharged, directly or indirectly, to the waters of the State or to any storm sewer, and the runoff from land used for the disposition of wastewater or sludges, but does not otherwise include nonpoint source discharges such as runoff from land or any livestock management facility or livestock wastehandling facility subject to regulation under Subtitle E.

33. Ammonia-laden wastewater discharged from the Site through the original Pipe to the ditch alongside IL-133, and through the New Pipe to the tributary to the Kaskaskia River, constitutes “effluent” as that term is defined in Section 301.275 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 301.275.

34. Section 304.106 of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 304.106, provides as follows:

In addition to the other requirements of this Part, no effluent shall contain settleable solids, floating debris, visible oil, grease, scum or sludge solids. Color, odor and turbidity must be reduced to below obvious levels.

35. The ammonia-laden wastewater discharged from the Site through the original Pipe to the ditch alongside IL-133 exhibited a yellow coloration.

36. By discharging ammonia-laden wastewater exhibiting a yellow coloration, Respondent violated Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106.

37. By violating Section 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 304.106, Respondent thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106;

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106;

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

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

COUNT IV
VIOLATION OF WATER QUALITY STANDARDS

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 31 of Count I, as paragraphs 1 through 31 of this Count IV.

32. Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), provides as follows:

Total ammonia nitrogen (as N: STORET Number 00610) must in no case exceed 15 mg/L.

33. Respondent discharged ammonia nitrogen-laden wastewater to the original Pipe which registered at 31.9 mg/L ammonia nitrogen, exceeding the legal limit of 15 mg/L.

34. Respondent discharged ammonia nitrogen-laden wastewater to the New Pipe which registered 330 mg/L total ammonia nitrogen, exceeding the legal limit of 15 mg/L.

35. By discharging ammonia nitrogen in excess of 15 mg/L total ammonia nitrogen, Respondent violated Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a).

36. Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105, provides, in relevant part, as follows:

In addition to the other requirements of this Part, no effluent shall, alone or in combination with other sources, cause a violation of any applicable water quality standard.

37. By violating Section 302.212(a) of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), Respondent caused a violation of an applicable water quality standard.

38. By causing a violation of an applicable water quality standard, Respondent violated Section 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.105.

39. By violating Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105, Respondent thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105;

C. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105;

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

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

COUNT V
OPEN DUMPING OF WASTE

1-31. Complainant realleges and incorporates herein by reference paragraphs 1 through 31 of Count I, as paragraphs 1 through 31 of this Count V.

32. Sections 21(a) and (e) of the Act, 415 ILCS 5/21(a) and (e) (2018), provide as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

* * *

(e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

* * *

33. Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), provides as follows:

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities ...

34. The ammonia-laden wastewater discharge is “waste”, as defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2018).

35. Section 3.305 of the Act, 415 ILCS 5/3.305 (2018), provides as follows:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

36. Section 3.385 of the Act, 415 ILCS 5/3.385 (2018), provides as follows:

“Refuse” means waste.

37. Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), provides as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

38. Section 3.445 of the Act, 415 ILCS 5/3.445 (2018), provides as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

39. Neither the Site nor the ditch alongside IL-133 is a “sanitary landfill” as provided for by Section 3.445 of the Act, 415 ILCS 5/3.445 (2018).

40. Respondent “disposed” of the ammonia-laden wastewater discharge, as provided for by Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), into the ditch alongside IL-133 and the tributary to the Kaskaskia River.

41. Respondent therefore caused or allowed “open dumping” of the ammonia-laden wastewater discharge, as provided for by Section 3.305 of the Act, 415 ILCS 5/3.305 (2018), into the ditch alongside IL-133 and the tributary to the Kaskaskia River.

42. By causing or allowing the open dumping of waste, Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018).

43. By disposing waste at a site or facility that does not meet the requirements of the Act or the regulations and standards thereunder, Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

44. Sections 21(p)(1), (4), and (6) of the Act, 415 ILCS 5/21(p)(1), (4), and (6) (2018), provide as follows:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

* * *

(4) deposition of waste in standing or flowing waters;

* * *

(6) standing or flowing liquid discharge from the dump site;

* * *

45. By causing or allowing the open dumping of waste in a manner which has resulted in litter, Respondent violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018).

46. By causing or allowing the open dumping of waste in a fashion that deposited the waste in standing or flowing waters, Respondent violated Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2018).

47. By causing or allowing the open dumping of waste in a fashion that resulted in standing or flowing liquid discharge from the Site, Respondent violated Section 21(p)(6) of the Act, 415 ILCS 5/21(p)(6).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, CRYSTAL COLD, LLC:

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

B. Finding that Respondent has violated Sections 21(a), (e), (p)(1), (p)(4), and (p)(6) of the Act, 415 ILCS 5/21(a), (e), (p)(1), (p)(4), and (p)(6) (2018);

C. Ordering Respondent to cease and desist from any further violations of Sections 21(a), (e), (p)(1), (p)(4), and (p)(6) of the Act, 415 ILCS 5/21(a), (e), (p)(1), (p)(4), and (p)(6) (2018);

D. Assessing against Respondent a civil penalty of \$50,000.00 for each violation of the Act and the Board's regulations, and an additional civil penalty of \$10,000.00 for each day such violations continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2018); and

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

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
Assistant Attorney General

Of Counsel:
NATALIE LONG
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62701
Ph: (217) 782-9034
nlong@atg.state.il.us
ebs@atg.state.il.us

Date: February 8, 2021

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PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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an Illinois limited liability company,)	
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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. (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 February 8, 2021 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 active limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to this Complaint, Respondent was and is the owner and operator of a refrigeration business located at 338N County Road 475E, Arthur, Douglas County, Illinois, 61911 ("Site"). The parcel number for the property is 02-07-35-200-02300.

B. Allegations of Non-Compliance

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

Count I: Water Pollution

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

Count II: Water Pollution Hazard

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

Count III: Offensive Discharges

Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Section 304.106 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.106

Count IV: Violation of Water Quality Standards

Section 12(a) of the Act, 415 ILCS 5/12(a) (2018), and Sections 302.212(a) and 304.105 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a) and 304.105

Count V: Open Dumping of Waste

Sections 21(a), (e), (p)(1), (p)(4), and (p)(6) of the Act, 415 ILCS 5/21(a), (e), (p)(1), (p)(4), and (p)(6) (2018)

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 violations 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

1. By October 30, 2018, Respondent hired a contractor to clean the tile that was formerly used to transport wastewater to the ditch on IL-133.

2. On March 13, 2019, Respondent notified Illinois EPA that it ceased discharging ammonia solutions into its wastewater, and instead had begun collecting the waste ammonia solutions for offsite disposal.

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).

**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:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) 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;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

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

1. The discharge of ammonia from the Site impacted both water and land, 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, so long as it is operated in compliance with the Act and Board regulations.
4. Collecting ammonia-laden wastewater and contracting with a third party to dispose of the ammonia-laden wastewater in a lawful manner was both 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) (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. The violations were first observed by Illinois EPA on or around October 4, 2018, and were resolved at various times in the following year.

2. Once the Illinois EPA notified Respondent of its noncompliance, Respondent was diligent in attempting 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 TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00) 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.

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 TWELVE THOUSAND FIVE HUNDRED Dollars (\$12,500.00) 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

D. Future Compliance

1. Crystal Cold must continue implementing the following actions: (1) cease the discharge of wastewater to the ditch on IL-133; (2) cease the discharge of ammonia solution to the sand filter; (3) collect the ammonia solutions generated at its facility to be transported offsite by a licensed waste hauler for disposal in accordance with all State of Illinois and federal regulations; and (4) retain all waste hauler receipts to be made available in the event of a request by Illinois EPA.

2. 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, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. 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.

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 \$12,500.00 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 February 8, 2021. 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) 782-9031
NLong@atg.state.il.us

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
Amanda.Kimmel@illinois.gov

Darwin Fields
Jeff Holste
Illinois EPA
Bureau of Water
Division of Water Pollution Control
FOS-Champaign
2125 South First Street
Champaign, IL 61820
217-278-5800

As to the Respondent

Claire Manning
Brown, Hay & Stephens, LLP
205 S. Fifth Street
Springfield, Illinois 62704
cmanning@bhslaw.com

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

G. 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.

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.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

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

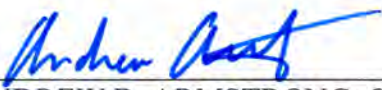
FOR THE COMPLAINANT:

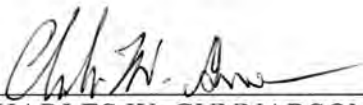
PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL
Attorney General of the State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JOHN KIM, Director
Illinois Environmental Protection Agency

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

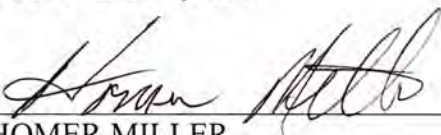
BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

DATE: 02/01/2021

DATE: 01/26/21

FOR THE RESPONDENT:

CRYSTAL COLD, LLC

BY: 
HOMER MILLER
President

DATE: Jan-5-2021

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. _____
)	(Water – 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) (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 of Sections 12(a), 12(d), 21(a), 21(e), 21(p)(1), 21(p)(4) and 21(p)(6) of the Act, 415 ILCS 5/12(a), 12(d), 21(a), 21(e), 21(p)(1), 21(p)(4) and 21(p)(6) (2018), and Sections 302.212(a), 304.105, and 304.106 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.212(a), 304.105, and 304.106.
2. Complainant filed its Complaint on February 8, 2021.
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) (2018).

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) (2018).

Respectfully submitted,

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

By: s/Natalie Long
NATALIE LONG
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62701
(217) 782-9034
nlong@atg.state.il.us
ebs@atg.state.il.us
ARDC No. 6309569

DATE: February 8, 2021

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2021, I served by electronic mail, and by certified mail, return receipt requested, a true and correct copy of the documents entitled Complaint, Stipulation and Proposal for Settlement, Notice of Filing, Motion for Relief from Hearing Requirement, and Certificate of Service to:

Crystal Cold, LLC
c/o Brown, Hay & Stephens, LLP
Attn: Ms. Claire Manning
205 S. Fifth Street
Springfield, Illinois 62704
cmanning@bhslaw.com

Crystal Cold, LLC
c/o Kenneth E. Hostetler
220 N. CR 425 E
Arcola, Illinois 61910

s/Lilia Brown _____
Lilia Brown
Administrative Clerk

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 Affidavit of Service 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.

s/Lilia Brown _____
Lilia Brown
Administrative Secretary