PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant CROWN CHEMICAL, INC. and defendant’s attorneys, JEFFREY E. ROGERS and JAMES T. HARRINGTON, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with one count (Count One) of conspiracy to knowingly violate the Clean Water Act (“CWA”), Title 33, United States Code, Section 1319(c)(2)(A), in violation of Title 18, United States Code, Sections 371 and 2, one count (Count Two) of knowingly violating the CWA, Title 33, United States Code, Section 1319(c)(2)(A), and one count (Count Three) of knowingly making a false statement, in violation of Title 18, United States Code, Section 1001(a)(2).

3. Defendant has read the charges against defendant contained in the indictment, and those charges have been fully explained to defendant by its attorney.

4. Defendant fully understands the nature and elements of the crimes with which defendant has been charged.
**Charge to Which Defendant is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Count One of the indictment. Count One charges the defendant with conspiracy to knowingly violate the CWA, Title 33, United States Code, Section 1319(c)(2)(A), in violation of Title 18, United States Code, Sections 371 and 2.

**Factual Basis**

6. Defendant will plead guilty because defendant is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish defendant's guilt and relevant conduct beyond a reasonable doubt:

   Beginning no later than on or about November 18, 1985, and continuing until on or about November 1, 2001, at Crestwood, in the Northern District of Illinois, Eastern Division, and elsewhere, the defendant, CROWN CHEMICAL, INC. ("CROWN CHEMICAL"), knowingly conspired with other persons to commit an offense against the United States, namely, to knowingly violate the CWA, Title 33, United States Code, Section 1317(d), and the requirements imposed in a pretreatment program approved under the CWA, Title 33, United States Code, Section 1342(b)(8), by:

   (a) discharging wastewater containing acidic and alkaline chemicals from the CROWN CHEMICAL facilities located at 13740 South Kenton Avenue, Crestwood, Illinois, and 4701 West 136th Street, Crestwood, Illinois, directly to the Metropolitan Water Reclamation District of Greater Chicago ("MWRDGC") sewer system that exhibited a pH of less than 5.0 or greater
than 10.0, and

(b) diluting and attempting to dilute the process wastewater as a partial or complete substitute for adequate treatment to achieve compliance; in violation of the CWA, Title 33, United States Code, Section 1319(c)(2)(A), and one or more members of the conspiracy did at least one act to effect the object of the conspiracy, all in violation of Title 18, United States Code, Sections 371 and 2.

Jurisdictional Facts and Regulatory Background

Since well before the November 1985, the MWRDGC operated multiple wastewater treatment plants in and around the City of Chicago that collected and treated wastewater generated by industrial, commercial and residential sources located in Chicago, Illinois, and several of its surrounding suburbs. One of the seven MWRDGC plants was the Calumet Water Reclamation Plant ("CWRP"), which was located on the south side of Chicago. The CWRP received wastewater from, among other places, wastewater sources located within the Village of Crestwood, Illinois. Wastewater treated by the CWRP was discharged into the Little Calumet River, a water of the United States.

The CWRP's discharge of wastewater to the Little Calumet River was strictly regulated by the terms of a CWA permit, known as a National Discharge Elimination System ("NPDES") permit, that, among other things, regulated the type, quantity and concentration of pollutants that the CWRP was authorized to discharge to the Little Calumet River. Both the NPDES permit for the CWRP and United States Environmental Protection Agency ("EPA") regulations at Title 40, Code of Federal Regulations, Part 403, required MWRDGC to develop and submit to EPA for approval a "pretreatment program" that regulated, among other things, the type, quantity and concentration of pollutants
introduced by industrial facilities into the MWRDGC sewer system. On or about November 18, 1985, EPA approved the MWRDGC Sewer Use Ordinance (hereinafter "Ordinance") as the MWRDG C's pretreatment program. From time to time thereafter, the Ordinance was amended and some of those amendments were approved as part of the MWRDGC's approved pretreatment program.

The approved Ordinance generally prohibited any source, including any industrial source, from introducing into the MWRDGC sewer system any wastewater that contained a pH (a measurement of the relative acidic or alkaline strength of a substance) of less than 5.0 or greater than 10.0, except that, if continuously monitored, discharges with a pH of up to 10.5 were permissible for not more than four hours in any single calendar day. The EPA pretreatment regulations at Title 40, Code of Federal Regulations, Section 403.5(b), independently prohibited any industrial source from introducing wastewater to the MWRDGC sewer system that exhibited a pH of less than 5.0. The approved Ordinance also generally prohibited regulated sources of wastewater from increasing the use of process wastewater or, in any way, diluting or attempting to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the pH limitations.

**Offense Conduct**

Since well before November 18, 1985, Crown Chemical was an Illinois corporation that owned and operated a chemical manufacturing business located in Crestwood, Illinois. Co-defendant James E. Spain started CROWN CHEMICAL in the early 1970s and, at all times relevant, was the President of CROWN CHEMICAL and owned a controlling percentage of CROWN CHEMICAL's outstanding shares of stock.
From its inception, CROWN CHEMICAL’s business consisted of manufacturing chemical cleaning products, including industrial and commercial cleaning products. For a number of years prior to in or about late 1995 or early 1996, CROWN CHEMICAL’s manufacturing facility was located at 13740 South Kenton Avenue, Crestwood, Illinois (hereinafter “the Kenton Avenue facility”). In approximately late 1995 or early 1996, CROWN CHEMICAL relocated its manufacturing facility to 4701 West 136th Street, Crestwood, Illinois (hereinafter “the 136th Street facility”). At both facilities, CROWN CHEMICAL manufactured chemical cleaning products, including industrial and commercial cleaning products. CROWN CHEMICAL’s manufacturing process was generally divided into the “Powders Section” and the “Liquids Section” based upon the nature of the product being manufactured. Many of the products manufactured by CROWN CHEMICAL exhibited a pH of less than 5.0 or greater than 10.0. Several products exhibited a pH of less than 2.0 or greater than 12.5.

At both the Kenton Avenue facility and the 136th Street facility, CROWN CHEMICAL’s products were manufactured in large metal tanks of various sizes, including several 550 gallon tanks. In general, products would be formulated in the various tanks based upon a customer's purchase order and the occasional need to keep some products in stock. When a new product needed to be made, the CROWN CHEMICAL workers generally used a hose to clean any product residue remaining in the tank. The amount of residue in a tank before cleaning varied but was generally a few gallons, although that amount could have been more in the largest mixing tank or less in the smaller tanks.

Beginning prior to November 18, 1985, Spain, acting on behalf of CROWN CHEMICAL, established the procedure for the disposal of wastewater that was generated
during the product manufacturing process at CROWN CHEMICAL. In particular, as a standard business practice, the product tank rinse water would simply be discharged by the CROWN CHEMICAL into a floor drain at the CROWN CHEMICAL facility. Those floor drains led to a “three-chambered sump” located within the CROWN CHEMICAL facility. The process wastewater was discharged from the three-chambered sump to the MWRDGC sewer system which, in turn, led to the CWRP. As CROWN CHEMICAL’s employees, including Spain, well knew, the pH of the wastewater was not checked at any point between its generation and its discharge into the MWRDGC sewer system and the wastewater was also not treated so as to bring the pH to within the legal range of 5.0 to 10.0. Although some variation did occur, both the Powders Section and the Liquids Section generally cleaned several tanks each day. In addition, at various times, CROWN CHEMICAL operated two shifts. In addition, Spain instructed CROWN CHEMICAL employees to place running water hoses into the floor drains at the time they were discharging wastewater in order to dilute the acidic or alkaline strength of the discharge. After learning the process from Spain, the CROWN CHEMICAL employees continued to follow the disposal process put in place by Spain and trained other employees on how to dispose of wastewater. At both the Kenton Avenue facility and the 136th Street facility, CROWN CHEMICAL did not have any written procedures on how wastewater treatment was to be done.

The discharge of untreated process wastewater was an ordinary part of CROWN CHEMICAL’s everyday manufacturing process at both the Kenton Avenue facility and the 136th Street facility. Some of CROWN CHEMICAL’s discharges of wastewater to the MWRDGC violated the Ordinance. In particular, some of the discharged wastewater
exhibited a pH of less than 5.0 or greater than 10.0, in violation of the Ordinance. In addition, the use of water to dilute the pH of the discharged wastewater violated the Ordinance. The unlawful wastewater discharges continued until at least November 1, 2001, at which time the EPA executed a search warrant at the CROWN CHEMICAL facility.

Spain, while serving as CROWN CHEMICAL’s President, was aware that CROWN CHEMICAL’s discharge of wastewater was a violation of the Ordinance. In addition, at various times between November 18, 1985, and November 1, 2001, various CROWN CHEMICAL employees expressed to Spain their concern that the wastewater discharges were illegal. Notwithstanding his awareness of these concerns, Spain, acting as the President of CROWN CHEMICAL, refused to change the wastewater discharge process. In 1995, Spain signed and caused to be submitted to the MWRD an incorrect application for a sewer connection for the 136th Street facility he was constructing with the intent of misleading the MWRD as to the nature of the discharges from CROWN CHEMICAL.

Also, on the day of the EPA search warrant, Spain, acting as the President of CROWN CHEMICAL, advised an employee (“Individual A”) who worked on the afternoon shift to lie to the EPA investigators when he arrived at work by stating that all wastewater was treated to a lawful pH prior to discharge to the MWRDGC. Spain further instructed Individual A to advise another afternoon shift employee to likewise lie to the EPA investigators. Further, when interviewed by EPA investigators on the day of the search warrant, Spain lied to the investigators by stating that he believed the workers were neutralizing all of the wastewater prior to discharge of the wastewater to the MWRDGC sewer system.
Maximum Statutory Penalties

7. Defendant understands that the charge to which defendant is pleading guilty carries the following statutory penalties:
   
a. A maximum term of probation of 5 years and a maximum fine of $500,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater.

b. In accord with Title 18, United States Code, Section 3013, defendant will be assessed $400 on the charge to which defendant has pled guilty, in addition to any other penalty imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

   a. **Applicable Guidelines.** The Sentencing Guidelines to be applied in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2007 Guidelines Manual.

   b. **Fine Amount Calculations.** Pursuant to Guideline §§ 8C2.1 and 8C2.10, the amount of the fine to be imposed is to be based upon the factors set forth at
Title 18, United States Code, Sections 3553 and 3572.

c. Defendant and its attorneys and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw its plea on the basis of the Court's rejection of these calculations.

d. Both parties expressly acknowledge that this plea agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw its plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. At the time of sentencing, the parties shall jointly recommend that the Court impose a sentence which includes a one-year term of probation. The parties are each free
to recommend any fine amount they deem appropriate.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and may impose any sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw its guilty plea.

12. Defendant agrees to pay the special assessment of $400 at the time of sentencing with a check or money order payable to the Clerk of the U.S. District Court.

13. Defendant shall, at its own cost and within 10 days of sentencing, publish a one-quarter page article in a major newspaper of general circulation in the Chicago area that states the following:

A PUBLIC APOLOGY

Crown Chemical, Inc., of Crestwood, apologizes for violating the federal Clean Water Act between 1985 and 2001 by illegally and routinely discharging untreated waste water into the Crestwood sewer system. Crown Chemical and its former President, James E. Spain, each pleaded guilty in Federal Court in Chicago to agreeing to violate environmental protection laws. On __________, 2008, Mr. Spain was sentenced to ______ in prison and fined $______, and Crown Chemical was sentenced to ______ year(s) on probation and fined $______. Crown Chemical was further ordered to publish this public apology as part of its guilty plea and sentencing.

As a result of the government's investigation, Crown Chemical now discharges its wastewater in compliance with federal, state and local environmental protection laws. Crown Chemical hopes that its admission of guilt and the sentences imposed upon the company and its former president will serve as a lesson to other businesses and individuals that everyone must respect the environment and obey the laws that protect it.

Anyone with information about environmental crimes should contact the U.S. Environmental Protection Agency's Criminal Investigation Division at (312) 886-9872.
14. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to this defendant.

**Presentence Investigation Report / Post-Sentence Supervision**

15. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Presentence Report and at sentencing shall fully apprise the Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charge against defendant, and related matters. The government will make known all matters in aggravation and mitigation relevant to the issue of sentencing.

16. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of defendant's financial circumstances, including defendant's recent corporate tax returns as specified by the Probation Officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of defendant's sentence for obstruction of justice under Guideline § 3C1.1, and may be separately prosecuted as a violation of Title 18, United States Code, Section 1001, or as a contempt of the Court.

17. For the purpose of monitoring defendant's compliance with its obligations to pay any fine during any term of probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States
Attorney's Office of defendant's corporate tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

18. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 06 CR 545.

19. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

20. Defendant understands that by pleading guilty defendant surrenders certain rights, including the following:
a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charge against it, and if it does, it would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of 12 citizens from the district, selected at random. Defendant and its attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict defendant unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant
would be able to confront those government witnesses and defendant's attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in defendant's own behalf. If the witnesses for defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

b. **Appellate rights.** Defendant further understands that it is waiving all appellate issues that might have been available if it had exercised its right to trial, and may only appeal the validity of this plea of guilty and the legality of the sentence imposed. Defendant understands that any appeal must be filed within 10 calendar days of the entry of the judgment of conviction.

c. Defendant understands that by pleading guilty it is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to defendant, and the consequences of its waiver of those rights.

**Other Terms**

21. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

22. At the time of the entry of this Plea Agreement, defendant shall file with the Court copies of any corporate resolutions adopted by defendant's board of directors authorizing the entry of this Plea Agreement and compliance with its terms.
23. Defendant agrees that its obligations under this Plea Agreement survive any change in its corporate name, form, or status.

**Conclusion**

24. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

25. Defendant understands that its compliance with each part of this Plea Agreement extends throughout the period of its sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event defendant violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

26. Should the Court refuse to accept defendant's plea of guilty, this Plea Agreement shall become null and void and neither party will be bound thereto.

27. Defendant and its attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in
this Plea Agreement to cause defendant to plead guilty.

28. Defendant acknowledges that it has read this Plea Agreement and carefully reviewed each provision with its attorney. Defendant further acknowledges that it understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: April 14, 2008

PATRICK J. FITZGERALD
United States Attorney

JEFFREY E. ROGERS
Authorized Representative of CROWN CHEMICAL, INC.
Defendant

TIMOTHY J. CHAPMAN
Assistant United States Attorney

JAMES T. HARRINGTON
Attorney for Defendant