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BY HAND DELIVERY

Mr. Jon Kessler
Director
Project XL
U.S. Environmental Protection Agency
401 M Street, S.W., Room 3202M
Washington, D.C. 20460

Re: Project XL Submission by The Joseph Company

Dear Jon:

On behalf of The Joseph Company, I am pleased to submit for your consideration the enclosed Project XL Proposal. The Joseph Company XL Proposal addresses the planned introduction in the United States of the Chill Can,™ an innovative technology invented and developed in the United States. This self-cooling beverage container technology is the realization of a goal sought by the beverage industry for decades.

The Joseph Company submits its Project XL Proposal in the hope that it can introduce this technology in the United States in a manner that results in a net environmental benefit. In particular, The Joseph Company intends to produce a net aggregate reduction in the emissions of greenhouse gases through the implementation of its Project XL Proposal.

The central feature of The Joseph Company's Project XL Proposal is an aggressive greenhouse gas ("GHG") offset program. The Joseph Company seeks to use a greenhouse gas, HFC R134a, for the introductory phase of the Chill Can.™ During this 5 to 7 year introduction period, the Project XL Proposal envisions a program under which the Company will help generate and obtain GHG emission reductions from a wide variety of sources, such as electric utilities, gas pipeline companies, coal mines, landfills, and others. The Joseph Company expects to enter into binding agreements to acquire from these companies GHG emission reductions in excess of the emissions resulting from the Chill Can. The Company will form a Steering Committee, which will have EPA participation, that will oversee and verify the emission reductions.

The Joseph Company XL Proposal breaks new ground in the area of GHG emissions. Perhaps the most important aspect of this proposal is that it will, for the first time, force the major sources of GHG emissions in the United States to recognize the

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value of GHG emissions reductions and seriously scrutinize their reduction opportunities in light of concrete monetary rewards. Many companies are making decisions today that will have significant, long-term impacts on GHG emissions, but these companies are giving no consideration to the GHG emission effect of their decisions.

Consider just one example of how this proposal can immediately and positively affect industry decisions. Currently many electric utilities in the east face NOx emission reduction obligations. The choices for such companies are: (1) switch to a lower emitting fuel (i.e. gas or oil); (2) install combustion technology; or (3) install post-combustion technology. Of these three choices, only fuel switching produces attendant reductions in emissions of $CO_2$, as well as other pollutants. But the benefits of $CO_2$ reductions do not play a role in the decision because there is no value in the reduction. This proposal would change that situation. If accepted, The Joseph Company XL Proposal will create a demand for GHG emission reductions which will test industry assertions about the costs of GHG reductions and drastically affect industry decision-making.

In addition to achieving complete offsets for the emissions, The Joseph Company also proposes to create a new "Golden Carrot" program to stimulate the development of alternative, more environmentally benign gases for use in the Chill Can™ and other applications. This cash award will help ensure that a suitable substitute is developed during the 5 to 7 year introductory phase. The Joseph Company is committed to the creation and use of alternative gases and/or the effective application of existing gases for use in its Chill Can.™ Beyond the Golden Carrot, The Joseph Company will dedicate its own research and development resources, alone and in cooperation with other industry groups, to develop alternative gases.

I look forward to your favorable review of The Joseph Company Project XL Proposal and welcome any questions or suggestions you may have.

Sincerely,

William M. Bumpers
Counsel to The Joseph Company

# The Joseph Company
# Project XL Proposal
# For The Introduction Of
# The Chill Can™ Technology

## I. INTRODUCTION

The Joseph Company (the "Company") has developed and seeks to market in the United States a new, patented technology known and trademarked as the "Chill Can™." The Chill Can™ is a self-chilling beverage can that reduces the temperature of a beverage by approximately 30 degrees Fahrenheit in less than ninety seconds. The beverage industry has been striving to develop this technology for generations. The Joseph Company has achieved that goal.

The Chill Can™ has numerous obvious "niche" applications, including use in non-cooling vending machines, at picnics and other outdoor events, and in rural locations where refrigeration is limited or unavailable. The self-chilling technology, however, has a wide range of potential commercial, military, and medical applications beyond the Chill Can™ itself.

The Joseph Company proposes initially to use the gas HFC R134a in the Chill Can™. R134a has been approved for a wide variety of applications, including as a food additive. The Company recognizes that R134a is potentially a global warming gas. The Company also is aware that the U.S. Environmental Protection Agency ("EPA") believes it has authority to regulate or prevent the use of this gas in the Chill Can™ technology. The Joseph Company disagrees with EPA's legal interpretation and policy position; nonetheless, the Joseph Company wants to ensure that the introduction of this technology in the United States results in a net environmental benefit. To achieve these goals and ensure a "win-win" situation, The Joseph Company herewith submits this Project XL Proposal.

### A. Project Overview

As part of the introduction strategy for its Chill Can™ technology, the Joseph Company proposes to create a net reduction in the emissions of greenhouse gases ("GHGs"). Within the scope of the XL Project, the Company will conduct a phased introduction of the Chill Can™. During a five to seven year introductory/ transition period, the Company will more than offset the emissions of R134a associated with the use of the Chill Can™ by acquiring and retiring GHG emission reduction credits and inducing the reduction of GHGs from a wide variety of sources. In addition, the Company proposes to create a new "Golden Carrot" program to stimulate the development of superior, environmentally benign, and cost-effective gases for use in the Chill Can™ and other applications.

The component elements of this proposal -- regulatory flexibility, a collaborative, non-adversarial process, U.S. leadership in innovative technology, and industry commitment to environmental excellence -- will combine to yield better environmental performance at a lower cost.

**B. Project Goals**

The goals of the Joseph Company XL Project are to:

- Create a net reduction in the emissions of GHGs;
- Establish markets for GHG reductions and send price/cost signals to major sources of such gases;
- Stimulate other GHG emission offset initiatives;
- Develop a non-adversarial regulatory strategy for the introduction of the Chill Can™ technology;
- Work with EPA and other stakeholders to introduce the Chill Can™ in a manner that produces environmental benefits;
- Create a financial incentive for the development of superior, environmentally benign gases for multiple applications;

**C. Project Benefits**

The Joseph Company XL Project will yield concrete, measurable benefits:

- A net reduction in the emissions of GHGs;
- Establishment of market signals to sources of GHGs (e.g. the electric utility industry, gas pipelines) that will stimulate additional GHG-reducing transactions and force superior environmental decisions;
- The creation of a model for a non-adversarial approach to environmental regulation;
- The promotion of an innovative, U.S. technology;
- The protection of the Company's patent and intellectual property rights;
- Increased efficiency compared to command-and-control; i.e., better environmental performance at a lower cost;
- The development of environmentally superior gases for multiple applications that will help facilitate the phase out of HFCs with global warming potential;
- The orientation of large segments of an industry sector toward environmental excellence;
- The leveraging of industry's resources to develop a long-term, sustainable environmental strategies.

### D. Project Partners

- EPA & the Administration
- The beverage industry
- Related industries (e.g., aluminum, gas and electric utilities, chemical manufacturers)
- Environmental groups

## II. COMPANY, TECHNOLOGY, AND REGULATORY BACKGROUND

### A. The Joseph Company

The Joseph Company is a Delaware Corporation that was founded by Mitchell J. Joseph for the purpose of developing and bringing to market a self-chilling beverage container. The Company's headquarters are in Laguna Niguel, California. Since the early 1900's many have conceptualized and attempted to bring to market a self-chilling container, but none have succeeded. The Joseph Company is the first to successfully develop and patent such a device that meets the beverage industry's criteria relating to cost, packaging, production, and toxicity.

Mitchell J. Joseph, the Chairman and Chief Executive Officer of the Company, comes from a family with four generations of experience in the beverage industry. The Joseph family owned, bottled, and distributed Dad's Old Fashioned Root Beer and Squirt Citrus Cola. The Joseph Company has dedicated the last five years and millions of dollars of research developing a commercially acceptable self-chilling container. That research continues to improve the design of the Chill Can™ and to develop and/or utilize alternative gases that have no adverse environmental impact.

### B. The Chill Can™ Technology

The Chill Can™ is basically a can within a can: the internal can is situated centrally within the standard outer can, so there is no contact between the product and the gas. When the can is activated, the gas evaporates, cooling the product in 60-90 seconds. The Chill Can™ is made of fully recyclable aluminum, and uses no hazardous, toxic or ozone-depleting substances. Various combinations of HFCs and hydrocarbon gases are under consideration for use with the Chill Can™. An HFC R134a/hydrocarbon blend most likely will be used during the transition period.

The Joseph Company Chill Can™ is the first self-chilling beverage container that meets the production, cost-effectiveness, and health & safety requirements required by the beverage industry. The Chill Can™ can be manufactured on

existing production lines, and will be the same size and dimensions as a standard 16 ounce can.

There are many potential applications for the self-chilling technology beyond the phased introduction of the Chill Can.™ In addition to its obvious commercial use to cool soda and other beverages, the technology has potential military applications (e.g., the cooling of drinking water) and medical applications (e.g., the cooling of blood and plasma). The Joseph Company and a U.S. military research laboratory currently have an agreement pending to adapt the self-chilling technology for military uses.

**C. Regulatory Issues**

The Joseph Company is committed to developing a substance for use in its Chill Can™ technology that has no detrimental environmental impacts. Initially, the Company plans to use HFC R134a during the phased introduction of the Chill Can™. Although R134a has a significant global warming potential, it has no other significant environmental effects and is widely used in the U.S. today.

The EPA takes the position that the direct release of R134a is prohibited or may be regulated under § 608 and § 612 under Title VI of the Clean Air Act, the Title that addresses stratospheric ozone depletion. Section 608 imposes a recycling requirement for certain gases used in refrigeration appliances. Section 612 is a program under which EPA identifies and publishes substitutes to, and applications for, Class I and II ozone depleting substances.

The Joseph Company disagrees with EPA's interpretation and conclusions regarding the Agency's authority to regulate or ban the near-term use of R134a in the Chill Can.™ Nonetheless, the Company agrees with the Agency's goal of minimizing emissions of GHGs. Because of the Joseph Company's commitment to environmental protection, and to developing superior substitute gases, the Company seeks to utilize the regulatory flexibility offered by Project XL to avoid a legal confrontation and ensure that environmental benefits result from the introduction of the Chill Can™ technology.

The regulatory flexibility offered by Project XL in this context will allow the introduction of the Chill Can™ while achieving a net reduction in the emissions of GHGs. On a broader scale, the Company believes that the implementation of the proposed XL Project will send critical price signals to large emitters of GHGs, force such companies to perform internal analysis of cost-effective emission reduction strategies, stimulate extensive basic research on GHGs, and facilitate the development of superior substitute gases for multiple applications. Creating market demand and opportunity costs for GHGs through this project could significantly affect corporate decisions over the next five years, decisions which will have dramatic long-term effects on domestic GHG emissions.

## III. PROJECT DESCRIPTION

### A. Offset Program: "Acquire & Retire"

At the core of the Joseph Company's proposal is the notion, stressed by President Clinton in his Reinventing Environmental Regulation Announcement on March 16, 1995, that the EPA should avail itself of market forces in general and should support the concept of market-based trading programs in the effort to reinvent environmental regulation. In addition, this proposal will aid the President in his effort under The Climate Change Action Plan of 1993 to reduce GHG emissions to 1990 levels by the year 2000, the goal set for industrial countries pursuant to the Framework Convention on Climate Change. With these guiding principles, the implementation of a GHG emissions offsets program is a rational step.

In order to counter the emissions of R134a from the use of the Chill Can™, during a five to seven year transition period the Joseph Company will seek out and acquire GHG emissions reduction credits/offsets from a variety of domestic sources including, but not limited to, electric utilities, gas utilities and pipelines, conservation companies, municipal landfills, and coal mine companies. The Company has already initiated discussions on this topic with a number of sources. The program would proceed as follows. The Joseph Company would contract with major sources of GHGs to acquire the rights to specific GHG emission reductions that have been or can be generated through voluntary measures or initiatives. The Company then would record the purchased emissions reductions to ensure that the sources could not subsequently use or sell the same credits or offsets to any other source seeking to offset increased emissions.

The Joseph Company's goal, within the context of Project XL, is to achieve a net environmental benefit from the introduction and marketing of the Chill Can™. To achieve this objective, the Joseph Company will obtain GHG emission reductions in a volume sufficient to offset Chill Can™ emissions plus 10%.

### B. Introductory/Transition Period

The Joseph Company does not view the use of R134a in the Chill Can™ as a long-term solution. Currently, however, it is the only technologically and economically feasible gas available for the Company's intended end use. The Company seeks to establish a transition period of five to seven years, during which the Chill Can™ may be marketed. In the interim, the Company will continue to conduct extensive research and development on new substitute gases that are technologically and environmentally superior. The Company also will continue its research into the use of existing gases with lower global warming potential in the Chill Can.™

During this transition period, the Joseph Company will implement the domestic GHG emission offset program described above. Because the Company's proposed offset strategy will negate any adverse environmental effects of the use of the Chill Can™, the Company believes that there is no reason the introduction of the Chill Can™ should be delayed further. The Joseph Company is convinced that under this proposal the immediate marketing of the Chill Can™ and the development of substitute gases can occur simultaneously, resulting in benefits for the environment, consumers, the EPA, the U.S. Military, and the medical profession.

### C. Verification

The Joseph Company will ensure that all reductions are accounted for and verified by independent auditors. In order to avoid double counting and ensure a true net environmental benefit, the Joseph Company will seek only those emissions reductions that are not already subject to an existing formal agreement or regulatory mandate.

The Company proposes to establish a stakeholder Steering Committee to serve as a verifying organization for the offsets. The Steering Committee will have multiple missions, but approving emission reduction and offset transactions will be one of its principal goals. The Company anticipates that the Steering Committee will have members from the Company, environmental organizations, the beverage industry, the canning industry, the chemical industry and other areas.

### D. Incentive Program ("Golden Carrot") for Substitute Gases

The Company proposes the establishment of an incentive program that will promote the development of environmentally and technologically superior gases for use in the Chill Can™. The incentive program would involve a large, and growing, cash reward for the person or company that develops a gas (or the ability to utilize existing gases in an acceptable manner) that meets specified criteria. The criteria will be established by the Steering Committee, with advice and direction from the EPA. The key criteria would be that the gas must have a zero or very low global warming potential and be capable of use in the Chill Can™.

### E. Expanded R&D Effort

Current efforts to develop substitutes for gases with global warming potential have been unfocused and ad hoc. To find a suitable substitute for R134a for the Chill Can™ and other applications, The Joseph Company plans to spearhead a targeted multi-industry R&D effort. The Steering Committee, in addition to its verification tasks, will be asked to help direct and secure funding for a concerted R&D effort into alternative gases.

### F. Stakeholder Outreach/Involvement

The Joseph Company will coordinate an intensive outreach campaign designed to educate stakeholders about the use of the self-chilling technology, the domestic offset program, the progress of other GHG reduction projects, and the progress of the R&D effort to find substitute gases.

### G. Related Industry Outreach

The Joseph Company has already reached out to other industries to build support and to explore additional initiatives to reduce GHG emissions. Related industries and potential partners in this effort include aluminum manufacturers, electric utilities, gas pipeline companies, coal mine operators, and municipal landfill operators.

## V. APPLICATION CRITERIA

The Joseph Company's Project XL proposal will satisfy each of EPA's criteria set forth in the Agency's solicitation published in the Federal Register. 60 Fed. Reg. 27282 (May 23, 1995).

### A. Environmental Results

The environmental results generated by the Joseph Company's XL Project will be significant. First, as a direct result of the project, the Company will achieve a net decrease in greenhouse gas emissions through the "retiring" of emissions reduction credits in a volume sufficient to offset Chill Can™ emissions plus 10%. Second, many of the Company's offset initiatives targeted at GHGs are likely to produce additional environmental benefits, including NOx, $SO_2$, HAP, and particulate emission reductions. Third, other activities within the scope of the XL project will also yield additional environmental benefits. For example, as the Chill Can™ is introduced it will lead to the retirement of energy intensive, old, leaky refrigeration equipment, and eventually will lead to the development of superior gases that could facilitate EPA's development of a phase-out protocol for high global warming potential gases. Finally, the project will benchmark the U.S. EPA as the leader for creative programs designed to reduce GHG emissions.

### B. Cost Savings and Paperwork Reduction

Utilizing market forces to obtain a net decrease in GHG emissions, as in the Company's proposal, is more efficient and cost-effective than traditional "command & control" environmental regulation. Since private sector funds will drive the project and since EPA will play an oversight/participation role rather than a pure

leadership role, the project will leverage scarce EPA resources. Additionally, important research and development efforts, such as the development of superior gases, will be funded by the private sector. On a broader scale, the successful introduction of the Chill Can™ technology will provide a substantial economic opportunity, creating U.S. jobs in the manufacturing and other sectors.

### C. Stakeholder Support

Support from all interested parties is key to the success of the Joseph Company's proposal. Consequently, in implementing the project, the Joseph Company will actively solicit support from and participation by the beverage industry, environmental community, the can manufacturing industry, and others with a stake in the Chill Can™ technology. The Joseph Company already has reached out to a number of these parties in an effort to build support for the introduction of its technology.

### D. Innovation/Multi-Media Pollution Prevention

Innovative approaches to environmental management are central to the Joseph Company's Project XL proposal. First, the Company seeks to avoid legal confrontation by involving EPA and the environmental community in the introduction of its technology. Second, the Company proposes a strategic approach to environmental management, integrating a product introduction/marketing effort with an environmental leadership strategy that will yield net environmental benefits. Finally, the proposed beverage industry environmental leadership strategy is an attempt to move beyond the narrow objective of introducing a specific technology and to promote industry-wide environmental excellence on a far larger scale.

### E. Transferability

The Company's cooperative, non-adversarial approach, as well as its use of market principles to develop a long-term, sustainable solution to an environmental problem, are transferable to many other regulatory contexts. The Joseph Company's efforts will serve as a model of effective environmental management for companies in a variety of industries facing similar challenges. Specifically, certain benefits flowing from the project -- creating a market for $CO_2$, sending price/cost signals for $CO_2$, and internalizing costs -- will help motivate industry to reduce GHG emissions. Creating demand for greenhouse gas reductions will, for the first time, test various industry claims regarding the cost of such reductions.

### F. Feasibility

The Joseph Company's XL Project is financially and logistically feasible. From a financing standpoint, the Joseph Company is committed to providing sufficient

resources to ensure a net environmental benefit from the introduction of the Chill Can™ technology. Additionally, due to the wide applicability of the Chill Can™ technology in the beverage industry, the beverage industry will also likely commit substantial financial resources to the effort to develop alternative gases to be used for numerous applications. Implementation of the program is also feasible. The concept of emissions trading, which underlies the Company's proposal, is already accepted by EPA and other stakeholders, as evidenced by the widespread support given to the development of the Agency's Open Market Trading Rule. Furthermore, GHG emissions reductions similar to those that the Joseph Company seeks to purchase are already being generated by a number of companies and verified by independent auditors.

### G. Monitoring, Reporting, Evaluation

The proposed emissions reduction and environmental leadership initiatives proposed by the Joseph Company will be carefully monitored. The Joseph Company will report its emissions reduction activities regularly to the EPA and stakeholders through various media. The format and contents of such reports can be developed cooperatively with EPA and stakeholder groups. Evaluation of the project will be straightforward, since its ultimate success will be measured in terms of specific goals: (1) achieving a net reduction in GHG emissions, (2) developing a superior gas to R134a during the five to seven year transition period.

## VI. CONCLUSION

The Joseph Company is committed to an environmentally beneficial introduction of its innovative Chill Can™ technology in the United States. If the EPA accepts the Company's Project XL Proposal, not only will the Company ensure that its GHG emissions are more than offset, it will create opportunity costs that will force a variety of industries to look at their own GHG emissions differently. The Company seeks the approval to release the preferred gas, R134a, for a transitional period of only five to seven years, during which the Company will spearhead research and development efforts to discover or create new, more environmentally superior alternatives. This effort could help facilitate the development of a protocol for the complete phase out of HFCs over a longer period. Finally, the Company hopes to lead the beverage industry in an environmental excellence program that will generate a wide range of environmental benefits.

In sum, The Joseph Company's Project XL Proposal offers the EPA an opportunity to support the development of new United States technology, create new employment, and stimulate new products in an environmentally beneficial manner.