

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

vs.)

TATE AND LYLE INGREDIENTS AMERICAS,)
INC., an Illinois corporation,)

PCB No. 09-107
(Enforcement-Air)

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on June 10, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, COMPLAINANT'S REPLY TO RESPONDENT'S AFFIRMATIVE DEFENSES, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 

CHRISTINE ZEIVEL
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: June 10, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on June 10, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and COMPLAINANT'S REPLY TO RESPONDENT'S AFFIRMATIVE DEFENSES upon the persons listed on the Service List.


CHRISTINE ZEIVEL
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Jeryl L. Olson
Elizabeth Leifel Ash
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131 South Dearborn Street
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Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
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v.)	PCB NO. 09-107
)	(Enforcement)
TATE AND LYLE INGREDIENTS AMERICAS,)	
INC, an Illinois corporation,)	
)	
Respondent.)	

COMPLAINANT'S REPLY TO RESPONDENT'S AFFIRMATIVE DEFENSES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, hereby files its Reply to Respondent's Affirmative Defenses, and states as follows:

AFFIRMATIVE DEFENSES

ANSWER ¶1:

Respondent states that to the extent the Board determines that it emitted any pollutant or pollutants in excess of permitted limits at any time during the period relevant to this Complaint, such emissions occurred during start-up, shut-down, and/or malfunction and are therefore not subject to enforcement pursuant to 40 C.F.R. § 60.8(c), 35 Ill. Adm. Code §§ 201.149, 201.265 and Conditions 7.7.5(g) and 7.7.5(i) of CAAPP Permit No. 96020099.

REPLY:

Complainant states that affirmative defense #1 fails to allege specific facts that identify which violations the defense purportedly defeats or that support the conclusions of fact and law contained within. The Respondent does not provide any facts to explain the conditions under which such emissions occurred or to support a conclusion that such operations were authorized by the facility's permit, and is therefore factually and legally insufficient. To the extent that a reply is required, the Complainant denies that the pollutants emitted by the Respondent in excess of permitted limits occurred during start-up, shut-down or malfunction as asserted in Paragraph 1 of the Answer.

ANSWER ¶ 2:

Respondent states that to the extent the Board determines that Respondent, at any time, did not have a required operating permit, Respondent had submitted a timely and complete application for a CAAPP permit and was operating under a valid construction permit and therefore not subject to enforcement pursuant to 415 ILCS 5/39.5(5)(h) and Condition 14 of Construction Permit No. 03070016.

REPLY:

Complainant states that affirmative defense #2 fails to allege specific facts that identify which violations the defense purportedly defeats or that support the conclusions of fact and law contained within, such as when the permit was issued, when it would expire, under what conditions, if any, it would extend in time and whether the Respondent met such conditions, and is therefore factually and legally insufficient. To the extent that a reply is required, the Complainant denies that the Respondent submitted a complete application for a CAAPP permit and denies that the Respondent was operating under a valid construction permit as asserted in Paragraph 2 of the Answer.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: 

CHRISTINE ZEIVEL
Environmental Bureau
Assistant Attorney General

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