

ILLINOIS POLLUTION CONTROL BOARD
October 27, 2016

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 09-107
) (Enforcement - Air)
TATE AND LYLE INGREDIENTS)
AMERICAS, LLC, an Illinois limited liability)
company, f/k/a Tate and Lyle Ingredients)
Americas, Inc.,)
)
Respondent.)

ORDER OF THE BOARD (by J.D. O’Leary):

In a fourth amended complaint, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), alleges violations of statutory and regulatory authorities and permit conditions by Tate and Lyle Ingredients Americas, LLC (respondent) at its grain processing facility located in Decatur, Macon County. The parties now file a joint motion (Mot.) requesting that the Board enter an agreed interim order that does not resolve the merits of the fourth amended complaint.

The joint motion states that the United States Environmental Protection Agency (USEPA) issued respondent a Finding of Violation with allegations similar to those in Count I of the fourth amended complaint. Mot. at 2. Since that finding was issued, the parties, USEPA, and the Illinois Environmental Protection Agency (IEPA), “have been engaged in confidential settlement negotiations relating to the violations alleged in the Fourth Amended Complaint and the Finding of Violation.” *Id.* Toward the goal of settlement, the agreed interim order sets deadlines for respondent to propose a test plan and, on approval, perform an evaluation test of a Dry Sorbent Injection system at its facility. The joint motion states that the parties do not now have sufficient information to evaluate the penalty factors at Sections 33(c) and 42(h) of the Environmental Protection Act. *Id.* at 4. Based upon results of the test, however, the parties “and the IEPA (in consultation with USEPA) intend to conduct further negotiations to attempt to reach agreement on a Stipulation, which would resolve this case in its entirety.” *Id.* at 3. The parties argue that “an interim order containing set deadlines will assist in bringing this matter to resolution.” *Id.* at 4. The Board notes that the agreed interim order, which is attached to the joint motion, requires respondent to submit its test plan to IEPA and USEPA on or before October 31, 2016.

The Board grants the parties’ joint motion to enter their agreed interim order. Without addressing the merits of the agreed interim order, the Board accepts it and incorporates it by reference. The proposed Agreed Interim Order states that “[t]he parties may, by mutual consent, extend any compliance dates or modify the terms of this Order without filing a motion for

leave.” The Board notes, however, that any modification of the Agreed Interim Order made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act. *See* People v. Reliable Materials Lyons, et al., PCB 12-52, slip op. at 2 (Aug. 21, 2014).

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 27, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board