

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	PCB No. 2009-107
vs.)	(Enforcement Air)
)	
TATE AND LYLE INGREDIENTS)	
AMERICAS LLC, an Illinois limited liability)	
company, f/k/a Tate and Lyle Ingredients)	
Americas, Inc.,)	
)	
Respondent.)	

NOTICE OF FILING

To:	<i>Via Email</i>	<i>Via Email</i>
	Jeryl L. Olson	Carol Webb
	James L. Curtis	Hearing Officer
	Seyfarth Shaw LLP	Illinois Pollution Control Board
	131 South Dearborn Street, Suite 2400	1021 North Grand Avenue East
	Chicago, IL 60603	Springfield, IL 62794
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PLEASE TAKE NOTICE that on the 14th day of December, 2017, the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, filed the Joint Status Report Regarding Paragraph 9(e) of Agreed Interim Order, a true and correct copy of which is attached hereto and is hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

By: 
 Kathryn A. Pamenter
 Assistant Attorney General
 Environmental Bureau
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JOINT STATUS REPORT REGARDING PARAGRAPH 9(e) of AGREED INTERIM ORDER

COMES NOW, Complainant, People of the State of Illinois, and Respondent, Tate and Lyle Ingredients Americas LLC (“Tate & Lyle”), and hereby jointly files this Joint Status Report Regarding Paragraph 9(e) of Agreed Interim Order.

A. Background.

1. On October 27, 2016, the Illinois Pollution Control Board (“Board”) entered an Order granting the Joint Motion to Approve and Enter Agreed Interim Order and approving the Agreed Interim Order.

2. In accordance with the Agreed Interim Order, Tate & Lyle timely (a) submitted the Test Plan (as defined therein) to conduct a SO₂ evaluation test of coal-fired Boilers #1 and #2 at Tate & Lyle’s facility, which the Illinois Environmental Protection Agency (“Illinois EPA”), in consultation with the United States Environmental Protection Agency (“USEPA”), approved; (b) conducted the SO₂ evaluation testing; and (c) submitted the Test Results Report (as defined therein) to the Illinois EPA and USEPA.

3. By letter dated July 12, 2017, the Illinois EPA, following consultation with USEPA, notified Tate & Lyle that it declined to accept the Test Results Report.

4. Paragraph 9(e) of the Agreed Interim Order required Tate & Lyle to submit a revised Test Results Report on or before August 1, 2017:

If the Illinois EPA, in consultation with U.S. EPA, accepts with conditions or declines to accept the Test Results Report because the performance testing was not completed in accordance with the approved Test Plan or the Test Results Report does not contain the information required pursuant to Paragraph 9(d) herein, within fourteen (14) business days after receiving written notice of such acceptance with conditions or rejection, (unless an extension is granted, in writing, consistent with Section X contained herein),¹ the Respondent shall submit a proposed revision to the Test Results Report to the Illinois EPA and U.S. EPA, pursuant to Paragraph 10 herein, that addresses the conditions or deficiencies identified by the Illinois EPA and U.S. EPA. If the Illinois EPA, in consultation with U.S. EPA, again accepts with conditions or declines to accept the revised document, within twenty-one (21) days of the date of the written notice of acceptance with conditions or rejection, the Respondent may (i) submit a second revised document incorporating proposed changes and/or conditions identified by the Illinois EPA and U.S. EPA or (ii) invoke Dispute Resolution pursuant to Section VII herein.

5. On July 24, 2017, a Joint Motion to Stay Paragraph 9(e) of Agreed Interim Order was filed (“Joint Motion”) with the Board. On August 17, 2017, the Board granted the Joint Motion and stayed Paragraph 9(e) of the Agreed Interim Order for 120 days through December 15, 2017. The Board also ordered the parties to file a status report describing the progress in this proceeding when the stay ends.

B. Status Report.

1. On August 4, 2017, Tate & Lyle submitted its Dry Sorbent Injection SO₂ Reduction Evaluation Test Sodium Bicarbonate Coil Boilers 1 (123-08) and 2 (123-09) (“August 4 Test Plan”).

2. On August 17, 2017, the Illinois EPA, following consultation with USEPA,

¹ In the Board’s Order dated October 27, 2016, it “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.” (Order at p. 2.)

approved the August 4 Test Plan.

3. On October 27, 2017, Tate & Lyle submitted its Dry Sorbent Injection SO₂ Reduction Evaluation Plan Sodium Bicarbonate Test Results Report for Coal Boilers 1 (123-08) and 2 (123-09) (the "October 27, 2017 Evaluation Report"), which thereby constituted its proposed revision to the Test Results Report (as defined in the Agreed Interim Order) that was originally due on August 1, 2017.

4. On December 12, 2017, the Illinois EPA approved the October 27, 2017 Evaluation Report.

5. The parties have agreed that no further extension of the August 2017 stay is necessary.

PEOPLE OF THE STATE OF ILLINOIS, TATE & LYLE INGREDIENTS AMERICAS LLC
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

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CERTIFICATE OF SERVICE

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 14th day of December, 2017, the attached Notice of Filing and Joint Status Report Regarding Paragraph 9(e) of Agreed Interim Order upon the persons set forth on the Notice of Filing *via email*.



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