

ILLINOIS POLLUTION CONTROL BOARD
August 23, 2018

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 C.M. Santos):

On August 11, 2014, the Board granted a motion by the Office of the Attorney General, on behalf of the People of the State of Illinois (People), for leave to file a three-count fourth amended complaint against Tate and Lyle Ingredients Americas, LLC (Tate & Lyle). The complaint concerns Tate & Lyle's Corn Wet Mill multi-plant complex 2200 East Eldorado Street in Decatur, Macon County. On August 3, 2018, the parties filed a stipulation and proposal for settlement (Prop.) and now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Tate & Lyle violated Section 165(a)(1) and (a)(4) of the Clean Air Act (42 U.S.C. §§ 7475 (a)(1) and (a)(4)); Sections 52.21(a)(2)(ii), 52.21(a)(2)(iii), 52.21(j)(1), 52.21(j)(3), and 60.43(a) of the Code of Federal Regulations (40 C.F.R. §§ 52.21(a)(2)(ii), 52.21(a)(2)(iii), 52.21(j)(1), 52.21(j)(3), and 60.43(a)); Sections 9(b), 9.1, 9.1(d)(1), and 39.5(6)(a) of the Environmental Protection Act (415 ILCS 5/9(b), 9.1, 9.1(d)(1), and 39.5(6)(a)); Condition 7.7.3 of its Clean Air Act Permit Program (CAAPP) Permit No. 96020099; and Conditions 5(a)(ii) and 6(a) of the Construction Permit No. 03070016.

The People allege that Tate & Lyle committed these alleged violations by operating boilers in violation of regulatory and permitted limits and resulting in sulfur dioxide (SO₂) emissions in excess of those limits; emission of isopropyl alcohol in excess of statutory and permitted levels; and failing to acquire the including the best available control technology (BACT) limitation and failing to implement BACT in violation of statutory and regulatory requirements.

In the parties' stipulation and proposal for settlement, the People contend that Tate & Lyle since the date of the filing of the fourth amended complaint has violated and may violate Section 9.1 and 39.5(6)(a) of the Environmental Protection Act (415 ILCS 5/9.1 and 39.5(6)(a) (2016)); Section 60.43(a) of the Code of Federal Regulations (40 C.F.R. § 60.43(a)); and Condition 7.7.3 of its CAAPP permit, "arising from the same or similar allegations as those set forth in Count I of the Fourth Amended Complaint." Prop. at 3.

On August 3, 2018, the People and Tate & Lyle filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Tate & Lyle does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$315,000. The parties' proposed settlement also includes future compliance actions including compliance with specified standards and submitting applications for permit modifications. Prop. at 12-13.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2016); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 23, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, slightly slanted style.

Don A. Brown, Clerk
Illinois Pollution Control Board