



On July 24, 2017, the parties filed a joint motion to stay paragraph 9(e) of the agreed interim order (Mot.). Paragraphs 2 and 3 of the motion report in detail on the progress of the proceeding. Mot. at 1-2; *see* 35 Ill. Adm. Code 101.514(a). The motion states that Tate and Lyle timely proposed a test plan and, on approval, performed the evaluation testing. Tate and Lyle also timely submitted the test report to IEPA and USEPA. Mot. at 1. However, through a letter dated July 12, 2017, IEPA—after consulting with USEPA—notified Tate and Lyle that it declined to accept the test report. *Id.* at 2.

In their joint motion, the parties agree that Tate & Lyle will conduct additional SO<sub>2</sub> evaluation testing. They add that they “are engaging in discussions to finalize the details of that evaluation and that the evaluation may facilitate ongoing efforts to settle this case.” Mot. at 3.

Under the circumstances described by the parties, the Board grants the joint motion to stay paragraph 9(e) of the agreed interim order. However, the motion does not propose a duration for the stay, and the Board does not favor indefinite stays. Accordingly, the Board’s stay will last for 120 days, through December 15, 2017, unless the Board sooner issues an order terminating the stay. At the end of the 120-day stay, the parties must file a status report and may request an extension. 35 Ill. Adm. Code 101.514(b).

The 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.” However, any modification of the order made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act. Tate and Lyle, PCB 09-107, slip op. at 1-2 (Oct. 27, 2016), citing People v. Reliable Materials Lyons, et al., PCB 12-52, slip op. at 2 (Aug. 21, 2014).

IT IS SO ORDERED.

Board Members B.K. Carter abstained.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 17, 2017, by a vote of 4-0.

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

Don A. Brown, Clerk  
Illinois Pollution Control Board