

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

THE STATE OF NEW MEXICO, EX REL.)
HECTOR BALDERAS, ATTORNEY)
GENERAL,)
) No. D-307-CV-2020-02629
Plaintiff,)
v.)
)
STERIGENICS U.S., LLC, SOTERA HEALTH)
HOLDINGS, LLC, SOTERA HEALTH LLC,)
AND SOTERA HEALTH COMPANY,)
)
Defendants.)
_____)

ORDER

This matter is before the Court following the Court's June 29, 2021 Order Granting Preliminary Injunction (the "June 29 Order"). In the June 29 Order, the Court preliminarily enjoined Sterigenics U.S., LLC ("Sterigenics U.S.") from engaging in the following conduct that Plaintiff alleges causes, makes, facilitates or otherwise allows uncontrolled emissions or releases of ethylene oxide ("EtO") from its medical products sterilization facility in Santa Teresa, New Mexico (the "Facility"):

- i. Leaving facility doors, shipping bays, or other means of egress open when not in use;
- ii. Leaving sterilization chamber doors, aeration room doors, and other interior doors open when not in use; and
- iii. Allowing any EtO to escape through pipes, equipment, vents, stacks, or other point sources prior to filtration or processing through fully functioning emissions controls.

Sterigenics U.S. denies that it was engaging in this alleged activity at the Facility and denies that any emissions of EtO from the Facility are causing any harm Plaintiff alleges.

In the June 29 Order, the Court instructed the parties to confer about “an appropriate protocol to monitor Sterigenics U.S.’s compliance with section A, above, including continuous monitoring of any uncontrolled emissions or releases of EtO from the Santa Teresa Plant.” The parties conferred about such a protocol on July 8, 15, 21 and 26, 2021 but did not reach an agreement. Consequently, the identification of a protocol to monitor Sterigenics U.S.’s compliance with section A of the June 29 Order is before the Court to decide.

Having considered the parties’ alternative proposals, the arguments of counsel, and all evidence and other matters of record, the Court hereby ORDERS the following:

1. Sterigenics U.S. shall continue daily monitoring of its emissions controls, work practices and compliance with the June 29 Order.

2. Sterigenics U.S. shall produce to Plaintiff a daily Monitoring Record of its emissions controls, work practices and compliance with the June 29 Order in the form of Exhibit A hereto. Sterigenics U.S. shall produce these daily Monitoring Records in weekly intervals by 5:00 p.m. MT on each Friday.

3. Sterigenics U.S. shall engage a third-party vendor to install an automated system to continuously monitor and record when any exterior door of the Facility is open and for how long. Sterigenics U.S. shall engage the third party to maintain the system and its data independently, and to make the system’s data concerning the time and duration of any door opening accessible to the Parties via a secure internet-based platform.

The Court further ORDERS the following:

4. Sterigenics U.S. shall install and operate the negative pressure and dry bed bank system (the “Negative Pressure System”) approved by the New Mexico Environment Department

("NMED") in the Air Quality Bureau New Source Review Permit No. 0733-M15-R2 (the "Air Quality Permit").


5. Sterigenics U.S. shall diligently install and begin operation of the Negative Pressure System as soon as possible. Sterigenics U.S. shall report the progress and status of its installation of the Negative Pressure System to the Court in writing on a monthly basis within 5 business days after the end of each month until the installation is complete.

6. Sterigenics U.S. shall operate the Negative Pressure System once it is installed and operational in compliance with the requirements of the NMED and in accordance with the Air Quality Permit.

7. Within 30 days of this Order, Sterigenics U.S. shall submit to the Court an expert declaration confirming that a negative pressure system is an accepted and reliable method of preventing uncontrolled emissions of EtO from a facility.

The requirements stated in this Order shall remain in place during the preliminary injunction ordered in the June 29 Order unless otherwise ordered by the Court.

IT IS SO ORDERED. This 20th day of December, 2021



JUDGE, COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

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