

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS
CHANCERY DIVISION**

Chris Kachiroubas
e-filed in the 18th Judicial Circuit Court
DuPage County
ENVELOPE: 5837170
2018CH001329
FILEDATE: 7/19/2019 11:25 AM
Date Submitted: 7/19/2019 11:25 AM
Date Accepted: 7/19/2019 2:31 PM
JP

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL,)
Attorney General of the State of Illinois, and)
ex rel. ROBERT BERLIN, State’s Attorney)
for DuPage County, Illinois,)
)
Plaintiff,)
)
v.)
)
STERIGENICS U.S., LLC,)
a Delaware limited liability company,)
)
Defendant.)

No. 2018 CH 001329

AMENDED JOINT MOTION TO ENTER PROPOSED CONSENT ORDER

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and *ex rel.* ROBERT BERLIN, State’s Attorney for DuPage County (“People”), and Defendant, STERIGENICS U.S., LLC (“Sterigenics,” together with the People, the “Parties”), respectfully request that this Court enter the proposed Consent Order submitted together with this motion as an order of the Court. In support hereof, the Parties state as follows:

1. On October 30, 2018, the People filed a Complaint for Injunctive Relief and Civil Penalties, which was amended on June 6, 2019 (“Complaint”), alleging that Sterigenics, through its emissions of ethylene oxide, (a) caused, threatened or allowed air pollution in violation of Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a) (2016), and Section 201.141 of the Pollution Control Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141; and (b) created and maintained a common law public nuisance (the “People’s Case”). Sterigenics denies any liability with respect to the allegations of the Complaint.

2. On February 15, 2019, John Kim, then Acting Director of the Illinois

Environmental Protection Agency (“IEPA”),¹ signed a Seal Order pursuant to 415 ILCS 5/34(b) that sealed “[a]ll storage containers of ethylene oxide” at Sterigenics’ facility in Willowbrook, Illinois (the “Seal Order”). (Complaint, Ex. 1, Seal Order at ¶ 19.)

3. On February 18, 2019, Sterigenics challenged the Seal Order by filing an action in the United States District Court for the Northern District of Illinois, styled as *Sterigenics U.S., LLC v. Kim et al.*, Case No. 19-cv-1219 (U.S. Dist. Ct., N.D. Ill.) (“Federal Litigation”), which the District Court dismissed on May 3, 2019, on the basis of lack of federal jurisdiction. On May 6, 2019, Sterigenics filed an action in the Circuit Court for DuPage County, *Sterigenics U.S., LLC v. Kim et al.*, Case No. 2019CH000566 (Cir. Ct., DuPage County) (the “Seal Order Litigation”). In both the Federal Litigation and the Seal Order Litigation, Sterigenics named Director Kim and IEPA as defendants.

4. On June 24, 2019, Sterigenics submitted to IEPA a construction permit application pursuant to Section 9.16 of the Illinois Environmental Protection Act, 415 ILCS 5/9.16² requesting the issuance of a construction permit containing additional capture and control measures for its commercial sterilization operations at its facility located at 7775 South Quincy Street in Willowbrook (Willowbrook I).

5. The Parties have now reached a final agreement in the form of the proposed Consent Order (see attached), which resolves the People’s Case and the Seal Order Litigation.

6. The proposed Consent Order provides a framework for the future operation of Sterigenics that is protective of public health and the environment and prohibits Sterigenics from

¹ On May 31, 2019, John Kim was confirmed as the Director of IEPA by the Illinois Senate.

² The Illinois Environmental Protection Act was amended by Public Act 101-22 to add a new Section 9.16 and became effective on June 21, 2019.

resuming commercial sterilization operations until (a) it installs the additional capture and control measures contained in an IEPA-issued construction permit, and (b) IEPA has verified the implementation of those measures.

7. The Parties respectfully request that the Court enter the proposed Consent Order as an order of the Court. The proposed Consent Order is lawful, fair, reasonable, adequate, and consistent with the recently-enacted law concerning commercial sterilization operations. 415 ILCS 5/9.16. Accordingly, the proposed Consent Order should be entered.

8. In addition, the Parties request that the Court retain jurisdiction over this action in accordance with the terms of the proposed Consent Order.

9. The Parties also request that the Court *vacate* paragraphs 2 and 3 of the Court's order dated July 8, 2019, which set: (a) a July 17, 2019 due date for the parties to submit a proposed Rule 218 scheduling order and statements regarding any disputed matters related thereto; and (b) a Rule 218 conference for July 22, 2019, at 11:00 am.

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WHEREFORE, the Parties respectfully request that the Court enter the proposed Consent Order as an order of the Court, retain jurisdiction over this action in accordance with the terms of the proposed Consent Order, and grant such other and further relief as the Court deems necessary.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois

By: /s/ Stephen J. Sylvester

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