



Office of the Attorney General

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Matthew H. Mead

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
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Division Deputy
Jay A. Jerde

Interim Attorney General
Peter K. Michael

ROUTING MEMO

TO: AQD file

THROUGH: Karen Godman, AQD Compliance Program Principal

FROM: Matthias Sayer, Asst. Attorney General

DATE: 8/28/2013

RE: *In re NOV Docket Nos. 4949-12 & 5029-12 issued to Tata
Chemicals (Soda Ash) partners*

Attached for the DEQ/AQD files are one copy of the signed Consent Decree and a copy of the \$81,700.00 stipulated penalty payment.

AQD must send EPA a copy of the Consent Decree.

Tata appears to have complied with the terms of the Consent Decree. I will file the necessary pleading with the district court to close the action.

Call me if you have any questions (3539).

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Lindsay Woznick (#6-3954)
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1720 Carey Ave., Suite 400
PO Box 1083
Cheyenne, WY 82003-1083
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IN THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR LARAMIE COUNTY, STATE OF WYOMING

PEOPLE OF THE STATE OF)
WYOMING,)
)
Plaintiff,)
)
v.)
)
TATA CHEMICALS (SODA ASH))
PARTNERS, a Delaware General)
Partnership,)
)
Defendant.)

Docket No. 181-310

FILED

JUL 31 2013

SANDY LANDERS
CLERK OF THE DISTRICT COURT

CONSENT DECREE

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), in the name of the People of the State of Wyoming as Plaintiff, under Sections 901(a) and 903(c) of the Wyoming Environmental Quality Act (Act) Wyo. Stat. Ann. §§ 35-11-901(a) and 903(c) (2012), has filed a Complaint against Defendant Tata Chemicals (Soda Ash) Partners, a Delaware general partnership (Tata Chemicals), alleging that Tata Chemicals failed to comply with certain conditions of operating permit 3-1-123-1 at Tata Chemicals' Green River Works facility (Facility) located in Sweetwater County, Wyoming. DEQ/AQD and Tata Chemicals (collectively referred to hereinafter as "Parties") state, and the Court by entering this Consent Decree finds, that the Parties negotiated this Consent Decree at arms length and in good faith to avoid or settle certain litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, the Parties, by and through their respective attorneys, have agreed to the following terms for resolving this litigation prior to trial, before the taking of

evidence, without adjudication or admission of any issue of fact or law, and with the consent of the Parties,

IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

I. Jurisdiction and Venue

This Court has jurisdiction over the subject matter and parties in this civil action under Section 901(a) of the Act. Wyo. Stat. Ann. § 35-11-901(a). Venue is proper in Laramie County under Section 903(c) of the Act. Wyo. Stat. Ann. § 35-11-903(c).

II. Parties

A. Tata Chemicals is a Delaware general partnership and is the owner and operator of the Facility located in Sweetwater County, Wyoming.

B. DEQ/AQD is the agency of Wyoming state government responsible for enforcing the Act, the DEQ/AQD rules (Air Quality Rules), the State Implementation Plan (State Plan) adopted pursuant to the federal Clean Air Act as amended, and permits issued pursuant to those provisions, including operating permit 3-1-123-1.

III. Background

A. Tata Chemicals

1. Tata Chemicals owns and operates the Facility located in Sweetwater County, Wyoming.

2. Tata Chemicals is a "person" as defined in Wyo. Stat. Ann. § 35-11-103(a)(vi) and Ch. 1, § 3(a) of the Air Quality Rules.

3. Tata Chemicals holds various DEQ/AQD permits relating to the Facility, including operating permit 3-1-123-1.

B. DEQ Operating Permit 3-1-123-1

1. The Act establishes a statutory scheme which is designed in part to enable the State of Wyoming to prevent, reduce, and eliminate pollution; to preserve and enhance the State of Wyoming's air, water, and land resources; and to allow the State of Wyoming to plan the development, use, reclamation, and enhancement of its air, land, and water resources. Wyo. Stat. Ann. § 35-11-102.

2. Wyoming Statute Annotated § 35-11-801(a) provides in pertinent part, “[i]n granting permits, the [DEQ] director may impose such conditions as may be necessary to accomplish the purpose of [the Wyoming Environmental Quality Act] which are not inconsistent with the existing rules, regulations and standards.”

3. Wyoming’s operating permit program for major sources defines sources subject to the program, application procedures, review of permit applications and issuance of operating permits. Wyo. Stat. Ann. §§ 35-11-203 to -206.

4. Wyoming Statute Annotated § 35-11-203(a) defines source categories subject to the DEQ/AQD operating permit program. In pertinent part, these sources include any stationary source or group of sources that: “(A) Has the potential to emit one hundred (100) tons or more per year of any pollutant regulated under the Clean Air Act and is a major stationary source as defined in section 302 of the Clean Air Act[.]”

5. Wyo. Stat. Ann. § 35-11-203(b) provides in relevant part, “[a]fter the effective date of the operating permit program authorized under W.S. 35-11-203 through 35-11-212, it shall be unlawful for any person . . . to operate any source required to have a permit under this section, without having complied with the provisions of the operating permit program.”

6. Chapter 6, Section 3 of the Air Quality Rules prescribes the applicability and procedures for issuing permits to sources under Wyoming’s operating permit program.

7. Chapter 6, Section 3(a) of the Air Quality Rules states that any major source, “[is] subject to the operating permit requirements of this section[.]”

8. Chapter 6, Section 3(d)(ii) of the Air Quality Rules provides: “[e]xcept as provided in this paragraph or in Chapter 6, Section 3(d)(iii), no source requiring an operating permit under Chapter 6, Section 3 may operate . . . except in compliance with a permit issued under this section.”

9. Chapter 6, Section 3(h)(i)(F)(I) of the Air Quality Rules mandates that the operating permit include a provision stating: “[t]he permittee must comply with all conditions of the operating permit. Any permit noncompliance constitutes a violation

of the [Clean Air] Act, Article 2 of the Wyoming Environmental Quality Act and the [Air Quality Rules] and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.”

10. On November 30, 2010, the DEQ/AQD issued operating permit 3-1-123-1 to Tata Chemicals for the Facility.

11. Condition F5(a) and Table 1 of operating permit 3-1-123-1 limit the visible emissions from the GR-2-L (C Boiler with electro-static precipitator (ESP) control) to 20% opacity, the GR-3-W (D Boiler with ESP control), the GR-3-D (GR-3 #1 Calciner with ESP control), and the GR-3-E (GR-3 #2 Calciner with ESP control) to 20% opacity.

12. Condition F14(a) of operating permit 3-1-123-1 requires periodic monitoring of visible emissions from GR-2L and GR-3-W through the use of continuous opacity monitoring systems.

13. Condition F14(c) of operating permit 3-1-123-1 requires period monitoring of visible emissions from the GR-3 #1 and GR-3 #2 Calciners with ESP controls using continuous opacity monitoring systems.

14. Condition F5(a) and Table 1 of operating permit 3-1-123-1 limit particulate matter emissions from GR-3-D and GR-3-E Calciner with ESP control to 37.90 lb/hr each.

15. Condition F9(a) requires periodic testing of particulate matter emissions from GR-3-D and GR-3-E.

16. Condition F6(a) of operating permit 3-1-123-1 limits sulfur dioxide emissions from GR-2-L to 1.2 lb/MMBtu.

17. Condition F16(a) of operating permit 3-1-123-1 requires periodic monitoring of sulfur dioxide (SO₂) emissions for GR-2-L.

C. DEQ Notice of Violation Docket No. 4949-12 and Subsequent Alleged Violations (C and D Boilers - Opacity)

1. During DEQ/AQD's FY-2012 Semi-Annual Inspection, the DEQ/AQD reviewed Tata Chemicals' continuous opacity monitoring reports for GR-2-L

and GR-3-W covering the time period from April 1, 2011 through September 30, 2011. As a result of this review, the DEQ/AQD determined and alleged that visible emissions from GR-2-L exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 4.9% of the operating time during the second quarter of 2011 and for 5.1% of the operating time during the third quarter of 2011. The DEQ/AQD also determined and alleged that visible emissions from GR-3-W exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 3.0% of the operating time during the second quarter of 2011 and for 7.0% of the operating time during the third quarter of 2011.

2. Under Wyo. Stat. Ann. § 35-11-701, the DEQ/AQD issued Notice of Violation Docket No. 4949-12 to Tata Chemicals on January 17, 2012, alleging that Tata Chemicals violated the Act, the WAQSR and operating permit 3-1-123-1 by failing to comply with the opacity emission limits for GR-2-L and GR-3-W during the second and third quarters of 2011.

3. After the DEQ/AQD issued Notice of Violation Docket No. 4949-12, it reviewed Tata Chemicals' excess emission reports for opacity emissions from GR-2-L and GR-3-W for the first and second quarters of 2012. As a result of this review, the DEQ/AQD determined and alleged that visible emissions from GR-2-L exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 10.5% of the operating time during the first quarter of 2012. The DEQ/AQD also determined and alleged that visible emissions from GR-3-W exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 17.6% of the operating time during the first quarter of 2012.

4. The DEQ/AQD alleged in its Complaint that Tata Chemicals violated the Act, the Air Quality Rules, and operating permit 3-1-123-1 by failing to comply with the opacity emission limits for GR-2-L and GR-3-W during the second and third quarters of 2011 and the first quarter of 2012.

5. Any person who violates any provision of Article 2 of the Act, the Air Quality Rules, or any standard or permit adopted pursuant to those provisions, "is

subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction[.]” Wyo. Stat. Ann. § 35-11-901(a).

D. DEQ Notice of Violation Docket No. 5029-12 (GR-3-D and GR-3-E Opacity)

1. The DEQ/AQD reviewed Tata Chemicals’ continuous opacity monitoring reports for GR-3-D and GR-3-E covering the time period from January 1, 2012 through March 31, 2012. As a result of this review, DEQ/AQD determined that visible emissions from GR-3-D exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 7.0% of the operating time for the first quarter of 2012. The DEQ/AQD also determined that visible emissions from GR-3-E exceeded the opacity limit of condition F5(a) and Table 1 of operating permit 3-1-123-1 for 6.3% of the operating time for the first quarter of 2012.

2. Under Wyo. Stat. Ann. § 35-11-701, the DEQ/AQD issued Notice of Violation Docket No. 5029-12 to Tata Chemicals on August 14, 2012, alleging in part that Tata Chemicals violated the Act, the Air Quality Rules, and operating permit 3-1-123-1 by failing to comply with the opacity emission limits for GR-3-D and GR-3-E during the first quarter of 2012.

3. Any person who violates any provision of Article 2 of the Act, the Air Quality Rules, or any standard or permit adopted pursuant to those provisions, “is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction[.]” Wyo. Stat. Ann. § 35-11-901(a).

E. DEQ Notice of Violation Docket No. 5029-12 (GR-3-D and GR-3-E Particulate Matter)

1. The DEQ/AQD reviewed Tata Chemicals’ report for its May 22, 2012 particulate matter stack testing of GR-3-D and GR-3-E. As a result of this review, DEQ/AQD determined that GR-3-D’s particulate matter emission rate of 89.93 lb/hr and GR-3-E’s particulate matter emission rate of 58.70 lb/hr exceeded the 37.90 lb/hr limit

prescribed by Condition F5(a) and Table 1 of operating permit 3-1-123-1 for each of these Calciners.

2. Under Wyo. Stat. Ann. § 35-11-701, the DEQ/AQD issued Notice of Violation Docket No. 5029-12 to Tata Chemicals on August 14, 2012, alleging in part that Tata Chemicals violated the Act, the Air Quality Rules, and operating permit 3-1-123-1 by failing to comply with the particulate matter emission limits for GR-3-D and GR-3-E from May 22, 2012 through July 31, 2012.

3. Any person who violates any provision of Article 2 of the Act, the Air Quality Rules, or any standard or permit adopted pursuant to those provisions, "is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction[.]" Wyo. Stat. Ann. § 35-11-901(a).

F. DEQ Notice of Violation Docket No. 5029-12 (GR-2-L Sulfur Dioxide)

1. The DEQ/AQD reviewed Tata Chemicals' continuous emission monitoring reports for sulfur dioxide emissions from GR-2-L covering the time period from January 1, 2012 through March 31, 2012. As a result of this review, DEQ/AQD determined that sulfur dioxide emissions from GR-2-L exceeded the sulfur dioxide limit of 1.2 lb/MMBtu prescribed by Condition F6(a) and Table 1 of operating permit 3-1-123-1 at a rate of 7.7% of the operating time during the first quarter of 2012.

2. Under Wyo. Stat. Ann. § 35-11-701, the DEQ/AQD issued Notice of Violation Docket No. 5029-12 to Tata Chemicals on August 14, 2012, alleging in part that Tata Chemicals violated the Act, the Air Quality Rules, and operating permit 3-1-123-1 by failing to comply with the sulfur dioxide emission limit for GR-2-L during the first quarter of 2012.

3. Any person who violates any provision of Article 2 of the Act, the Air Quality Rules, or any standard or permit adopted pursuant to those provisions, "is subject to a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation for each day during which violation continues, a temporary or permanent injunction, or both a penalty and an injunction[.]" Wyo. Stat. Ann. § 35-11-901(a).

IV. Settlement

A. Within thirty (30) days after notice to Tata Chemicals of entry by the Court of this Consent Decree, Tata Chemicals, without admitting any of the facts alleged in the Notices of Violation or the Complaint, and without admitting any liability or failure to comply with any statutory, regulatory, or permit requirements, agrees to pay to the DEQ/AQD the sum of eighty one thousand seven hundred dollars and no cents (\$81,700.00) (Stipulated Civil Penalty) as a full and complete cash payment to resolve the DEQ/AQD's allegations set forth in the Notices of Violation and the Complaint. Tata Chemicals shall make the check payable to the Department of Environmental Quality and shall deliver payment to Matthias Sayer, Assistant Attorney General, Wyoming Attorney General's Office, 123 Capitol Building, Cheyenne, WY 82002.

B. Payment of the Stipulated Civil Penalty shall constitute full satisfaction of Tata Chemicals' obligations under this Consent Decree.

V. Release and Covenant Not to Sue and Dismissal with Prejudice

A. DEQ/AQD agrees that payment of the Stipulated Civil Penalty, as specified in Section IV of this Consent Decree, shall constitute full satisfaction of the claims against Tata Chemicals that Wyoming alleged in the Notices of Violation or the Complaint initiating this action.

B. In consideration of Tata Chemicals' payment of the Stipulated Civil Penalty, the DEQ/AQD and the State of Wyoming hereby releases and covenants not to sue Tata Chemicals, its respective successors, assigns, affiliates, parents, officers, directors, employees, and representatives, as to any common law claims, statutory claims, or other claims or causes of action arising out of the facts, transactions, or events which were alleged in the Complaint initiating this action or in the Notices of Violation on the basis of knowledge DEQ/AQD actually had at the time of issuing the Notices of Violation.

C. This covenant not to sue is expressly conditioned upon the complete and satisfactory performance by Tata Chemicals of the obligation as specified in Section IV of this Consent Decree.

D. Within thirty (30) days after the complete and satisfactory performance by Tata Chemicals of the terms of this Consent Decree, the DEQ/AQD will request that the Court terminate this Consent Decree and dismiss this action with prejudice as to all claims which were made in this lawsuit.

E. The terms of Section V shall survive the termination of the Consent Decree.

VI. Parties Bound

A. This Consent Decree shall apply to, and be binding upon, Tata Chemicals, its successors, and assigns and upon the DEQ/AQD and the State of Wyoming.

B. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Consent Decree shall not be construed so as to create such status. The rights, duties, and obligations contained in this Consent Decree shall operate among the Parties to this Consent Decree.

C. Nothing in this Consent Decree relieves Tata Chemicals of its duty to comply with the Act, the Air Quality Rules, Wyoming's State Plan, the federal Clean Air Act, and any rules, regulations and standards adopted thereunder, including any permit requirements.

D. This Consent Decree is not and shall not be construed to be a permit or permit modification issued pursuant to any federal, state, or local statute, ordinance, or regulation. Tata Chemicals shall remain solely responsible for its compliance with the terms of this Consent Decree, all permits, and all applicable federal, state, and local laws and regulations.

VII. Terms Not Severable

The terms of this Consent Decree, which embody the comprehensive stipulated settlement between the Parties, are not severable.

VIII. Reservation of Rights

A. By signing this Consent Decree, Tata Chemicals does not admit that it violated any provision of the Act, the Air Quality Rules, Wyoming's State Plan, the federal Clean Air Act, or permits or waivers issued pursuant to such authority. By

entering this Consent Decree, Tata Chemicals does not admit or deny the validity of any allegation contained in the Notices of Violation or the Complaint.

B. DEQ/AQD and the State of Wyoming reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, including seeking injunctive relief and/or civil penalties.

C. DEQ/AQD and the State of Wyoming do not waive sovereign immunity by entering into this Consent Decree and retain immunity and all defenses available to them as sovereigns under all state and federal law, except that any of the Parties may bring an action to seek interpretation or enforcement of this Consent Decree. In the event that DEQ/AQD prevails in an action to enforce this Consent Decree, Tata Chemicals shall bear DEQ/AQD's costs and fees. In all other cases, each party shall bear its own costs, fees, and expenses.

IX. Termination of Consent Decree

Except as otherwise provided in Section V, the terms and conditions of this Consent Decree shall terminate upon the DEQ/AQD's filing of written notice to the Court confirming the completion of Tata Chemicals' obligations under this Consent Decree, and the Court's entry of a Termination and Dismissal Order.

X. Attorney's Fees/Costs of Action

Each party shall bear its own attorneys fees and costs of this action.

XI. Retention of Jurisdiction

This Court shall retain jurisdiction to enforce the terms and conditions of this Consent Decree, to enter such orders as are appropriate under the Consent Decree, and to resolve all disputes as may be necessary or appropriate for the construction or to carry out the terms of this Consent Decree until it is terminated as provided above.

XII. Authority

The signatories certify that they are duly authorized to bind their respective Parties to this Consent Decree.

DATED this 30th day of July, 2013.

[Signature]
DISTRICT COURT JUDGE

WE HEREBY CONSENT to the entry of this Consent Decree:

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Steven A. Dietrich
Steven A. Dietrich, Administrator
Air Quality Division

7-19-13
Date

Todd Parfitt
Todd Parfitt, Director
Department of Environmental Quality

7/19/13
Date

FOR TATA CHEMICALS (SODA ASH) PARTNERS:
By: Tata Chemicals (Soda Ash) Partners Holdings, Managing Partner
By: Tata Chemicals North America Inc., Managing Partner

By: [Signature]
Name: Debra W. Bloomquist
Title: President & CEO

7/16/13
Date

APPROVAL AS TO FORM:

Matthias L. Sayer
Matthias L. Sayer (#74677)
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002
(307) 777-6946
Attorney for DEQ/AQD

6-25-13
Date

[Signature]
Lindsay A. Woznick (#6-3954)
Hirst Applegate, LLP
1720 Carey Ave., Suite 400
PO Box 1083
Cheyenne, WY 82003-1083
(307) 632-0541
Attorney for Tata Chemicals (Soda Ash) Partners

7/17/13
Date

STATE OF WYOMING COUNTY OF LARAMIE, SS CHEYENNE
I, Sandy Landers, Clerk of the District Court, and for the County of Laramie, Wyoming, do hereby certify that the within and foregoing is a full and correct copy of the original as the same appears on file or of record in my office and that the same is in full force and effect as of this date.

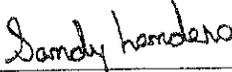
Witness my hand and seal of said court this 30th day of July, 2013.
SANDY LANDERS
Clerk of District Court
By: [Signature]

CERTIFICATE OF SERVICE

I hereby certify that on the 31 day of July, 2013, a true copy of the foregoing *Consent Decree* was mailed, postage prepaid to the following:

Lindsay A. Woznick
Hirst Applegate, LLP
PO Box 1083
Cheyenne, WY 82003-1083

Wyoming Attorney General's Office
Attn: Matthias Sayer
123 Capitol Building
Cheyenne, WY 82002



CLERK OF DISTRICT COURT

Deputy Clerk District Court