January 5, 2021

By Electronic Mail

Thomas Carroll
Acting Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: January Update to Response to April 24, 2020 Letter from the U.S. Environmental Protection Agency

Dear Mr. Carroll:

Birla Carbon USA, Inc. ("Birla" or the "Company") submits this letter as the eighth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency ("EPA" or the "Agency") regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality ("LDEQ"), the Kansas Department of Health and Environment ("KDHE"), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that certain attachments to this letter include confidential business information ("CBI") and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.[1]

[1] Certain attachments to this letter include CBI, which Birla has designated as such with the stamp "CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA." Based on a review of relevant LDEQ regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

I. North Bend

Since our last update, construction was ongoing at North Bend for installation of equipment required under the Consent Decree. As per the attached letter from Birla's engineer of record, SNC-Lavalin Constructors Inc. ("SNC"), due in part to the Company's efforts to expedite the project, overall delays in meeting North Bend Consent Decree deadlines were reduced from a two to four month delay and are now estimated at just over seven weeks from the original target date of October 1, 2021. *See* Confidential Attachment 1. The completion date for the project is now estimated to be November 22, 2021. *See id*.

II. Hickok

Construction is ongoing at Hickok for installation of equipment required under the Consent Decree. *See* Confidential Attachments 2, 3, and 4. Birla received notice from its supply chain lead that the reactor vent scrubbers shipment is delayed. *See* Attachment 5. Birla is working diligently with shipping companies to get the equipment delivered to the site as soon as possible, and the Company paid extra fees to join a priority shipment program. *See id*. The Company was advised by its shipping agent that delivery should be expected in Denver, Colorado on February 22, 2021, where the container will have to clear U.S. Customs and Border Protection ("CBP"). *See* Confidential Attachment 6. Once the container clears CBP, it will be delivered to the site for installation and commissioning. Birla Carbon anticipates that the installation and commissioning will take three to five weeks. Due to this delay and others described in our last notice, Birla estimates the completion date for the project to be April 9, 2021. *See* Attachment 7.

The Company continues enforcing all COVID-19-related requirements at both project sites. COVID-19 cases have gone down since the Company's last notice, but one employee at Hickok was quarantined as of the date of this notice.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,

Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Lisa Gotto, U.S. EPA Region 7 (by email)

Lisa Hanlon, U.S. EPA Region 7 (by email)
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
Dwana King, LDEQ (by FedEx)
Celena Cage, LDEQ (by FedEx)
David Buente, Sidley Austin LLP (by email)
Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021-01-04 - North Bend - SNC Notice of Force Majeure Event

Confidential Attachment 2 - 2020-11-27 - Hickok - Worley Project Update

Confidential Attachment 3 - 2020-12-30 - Hickok - Worley Project Schedule

Confidential Attachment 4 - 2021-01-04 - Hickok - COVID-19 Impact Schedule Analysis

Attachment 5 - 2021-01-04 - Hickok - Notice from Supply Chain Lead

Confidential Attachment 6 - 2021-01-04 - Hickok - Notice from Shipping Agent

Attachment 7 - 2021-01-05 - Hickok - Notice from Project Director

Confidential Attachment 1

2021-01-04 - North Bend -

SNC Notice of Force Majeure Event

Confidential Attachment 2

2020-11-27 - Hickok - Worley Project Update

Confidential Attachment 3

2020-12-30 - Hickok - Worley Project Schedule

Confidential Attachment 4

2021-01-04 - Hickok -

COVID-19 Impact Schedule Analysis

Attachment 5

2021-01-04 - Hickok -

Notice from Supply Chain Lead

Rahman, Anushka N.

To: Waskul, Randy
Subject: RE: Vent Scrubber Delivery Delayed

From: Yeomans, Geoffrey <Geoffrey.Yeomans@adityabirla.com>
Sent: Monday, January 4, 2021 10:05 AM
To: Waskul, Randy <Randy.Waskul@adityabirla.com>; Vannice, Mark <Mark.Vannice@adityabirla.com>
Subject: Vent Scrubber Delivery Delayed

Hi Randy/Mark,

The Vent Scrubber is delayed due to issues in Asia at the port that are out of our control. We delivered it to the port on 12/22 but there are shipping delays in Asia and the original ship booking was dropped as they claimed that they were overbooked and did not have space.
The shipping companies have recently created a priority program that requires an additional fee, we have paid it, and are on the list. We do not have an updated date of departure at this time, but we will be following up every day this week until we get a spot on a ship. They are aware that this is urgent.
I will keep you both informed of our progress.

Geoff Yeomans

--
Supply Chain Lead
Marietta, GA

Birla Carbon
T: (770) 792-9462 | **W**: www.birlacarbon.com
E: Geoffrey.Yeomans@adityabirla.com

Confidential Attachment 6

2021-01-04 - Hickok - Notice from Shipping Agent

[redacted]

[redacted]

Attachment 7

2021-01-05 - Hickok -
Notice from Project Director

Rahman, Anushka N.

Subject: Hickok Vent Scrubber Delivery & Installation

From: Vannice, Mark <Mark.Vannice@adityabirla.com>
Sent: Tuesday, January 5, 2021 1:30 PM
To: Waskul, Randy <Randy.Waskul@adityabirla.com>; Clark, Dale <Dale.Clark@adityabirla.com>; Bauer, Andrew <Andrew.Bauer@adityabirla.com>
Subject: Hickok Vent Scrubber Delivery & Installation

Randy

Per our previous conversation

I am traveling today and do not access to internet.

The estimated time for the Vent Scrubber to clear customs and be delivered to the Hickok Plant is 7 days

The estimated time for installation and testing for the Vent Scrubber is 4 to 6 weeks, once it is arrived on site

If you have questions or need further clarification, please feel free to give me a call

Mark

Mark Vannice, PE
Project Director EPA 114
Birla Carbon