Message

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Subject: Las Cruces Sun-News: New Mexico toxic pollution lawsuit against Sterigenics bounced back to state court

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New Mexico toxic pollution lawsuit against Sterigenics bounced back to state court

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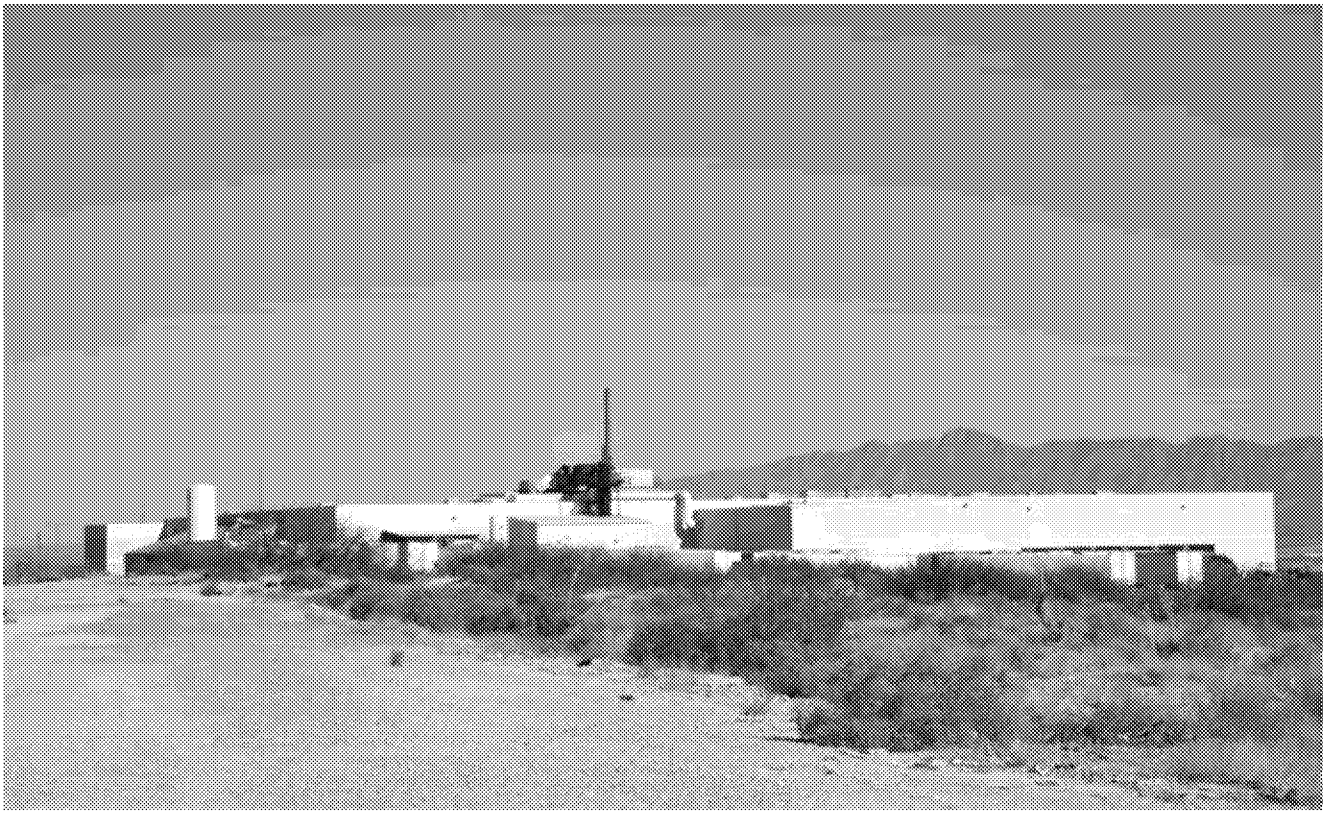
LAS CRUCES – A lawsuit accusing a Doña Ana County medical equipment sterilizing facility of releasing a known carcinogen into the environment is back in state court.

The Sterigenics company, which has operated its plant in Santa Teresa since 1989, sought to remove the case to federal court, but federal judge Kenneth Gonzales ruled last week that the case did not present a substantial question of federal law and centers on a public nuisance claim which is "typically of a state nature and traditionally tried in state court."

This week, New Mexico Attorney General Hector Balderas' office is once again seeking a temporary restraining order and preliminary injunction in New Mexico's Third Judicial District that would prevent "continued uncontrolled emission of ethylene oxide ("EtO") from the facility.

The Sterigenics plant is on Airport Road next to the Pete V. Domenici Highway, in an industrial park near the Santa Teresa Port of Entry and within miles of residential communities in New Mexico and West Texas.



The company, a subsidiary of Sotera Health, came under intense scrutiny in 2018 after a report by the U.S. Environmental Protection Agency detailed cancer risks from industrial ethylene oxide emissions. Lawsuits were subsequently filed in several communities harboring Sterigenics operations.

Ethylene oxide is a flammable gas used by Sterigenics to sterilize medical equipment and plastic devices that cannot be sterilized by steam. The company claimed in a court filing that it sterilizes 2.5 million medical products daily, consisting largely of surgical equipment and tubing as well as other equipment.

The chemical has been linked to numerous cancers even at low levels of exposure, per EPA data which the company claims overstates risks from EtO.

Although the company has reported emitting "several tons of EtO per year" in Santa Teresa, the Attorney General's Office argued in its original complaint last December that it was not accounting for emissions from allegedly leaving doors open up to days at a time, hosing off equipment into an ordinary drain and "off-gassing" of the chemical from equipment shipped by road from the company's San Diego, California facility.

Last summer, the EPA reported that Sterigenics reduced emissions of the chemical by 83 percent between 2014 and 2016.

However, the state maintains that it gathered air samples within a four-mile radius showing concentrations of EtO exceeding federal cancer risk levels. It also claimed county residents in one census tract with the greatest exposure were exposed to risk far greater than the national average: 214.6 per 1 million since 2014, compared to a 30 per 1 million average.

In a 400-page response, the company denied it was releasing excessive uncontrolled emissions and argued the attorney general was seeking to regulate the facility beyond requirements set by the state Environment Department and the EPA.

In an affidavit, Sterigenics General Manager Steve Ortiz denied the state's claims about off-gassing practices and said the plant does not receive sterilized equipment from other facilities for aeration.

A preliminary injunction hearing has been set for May 26.

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