Message

From: Robinson, Jeffrey [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5C2955A5BAB44049BAA34B80783864EF-ROBINSON, JEFFREY]
Sent: 1/5/2021 1:33:31 PM
To: LeDoux, Erica [LeDoux.Erica@epa.gov]
Subject: FW: New Mexico sues Sterigenics over ethylene oxide emissions at Santa Teresa plant

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From: Casso, Ruben <Casso.Ruben@epa.gov>
Sent: Tuesday, January 5, 2021 7:24 AM
To: Robinson, Jeffrey <Robinson.Jeffrey@epa.gov>; Verhalen, Frances <verhalen.frances@epa.gov>
Cc: Durant, Jennah <Durant.Jennah@epa.gov>
Subject: New Mexico sues Sterigenics over ethylene oxide emissions at Santa Teresa plant

https://www.lcsun-news.com/story/news/local/2021/01/05/new-mexico-sues-sterigenics-ethylene-oxide-dona-ana-county-santa-teresa-sotera-health/4127115001/

New Mexico sues Sterigenics over ethylene oxide emissions at Santa Teresa plant

Medical equipment sterilizing company calls lawsuit 'baseless,' says facility is safe

Algernon D'Ammassa
Las Cruces Sun-News

SANTA TERESA – New Mexico's Attorney General is accusing a medical equipment sterilizing facility in Doña Ana County of "intentional or negligent" releases of a known carcinogen into the environment, harming air quality and increasing cancer risk for local communities.

In a complaint filed in the state's Third Judicial District on Dec. 22, Attorney General Hector Balderas alleges the Sterigenics company, which has operated a plant in Santa Teresa since 1989, released "unreported, uncontrolled" amounts of ethylene oxide over its years of operation.

The plant, on Airport Road next to the Pete V. Domenici Highway, is 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 states in a court filing that the plant sterilizes 2.5 million medical products daily, consisting largely of surgical equipment and tubing as well as other equipment.

The company, a subsidiary of Sotera Health, has come under intense scrutiny since a 2018 federal report by the U.S. Environmental Protection Agency on cancer risks from industrial ethylene oxide emissions.

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Since then, lawsuits have been filed in several U.S. communities where Sterigenics facilities are located.

A Sterigenics representative issued a statement on Monday:

"Sterigenics denies the unfounded claims made in this lawsuit. We operate safely and are committed to protecting public health. Our Santa Teresa facility performs the vital sterilization of medical products for healthcare providers and patients who need them — including life-saving medical products that are used to respond to the COVID-19 pandemic — and we consistently comply with all applicable laws and regulations in our operations. We will vigorously defend our essential and safe operations against this baseless lawsuit."

Story continues below the gallery.

What is ethylene oxide?

"Ethylene oxide is a flammable, colorless gas used to make other chemicals that are used in making a range of products, including antifreeze, textiles, plastics, detergents and adhesives," the EPA states in a report on hazardous air pollutants. "Ethylene oxide also is used to sterilize equipment and plastic devices that cannot be sterilized by steam, such as medical equipment."

The agency has linked the chemical, often abbreviated as EtO, to numerous cancers in humans at even low levels of exposure.

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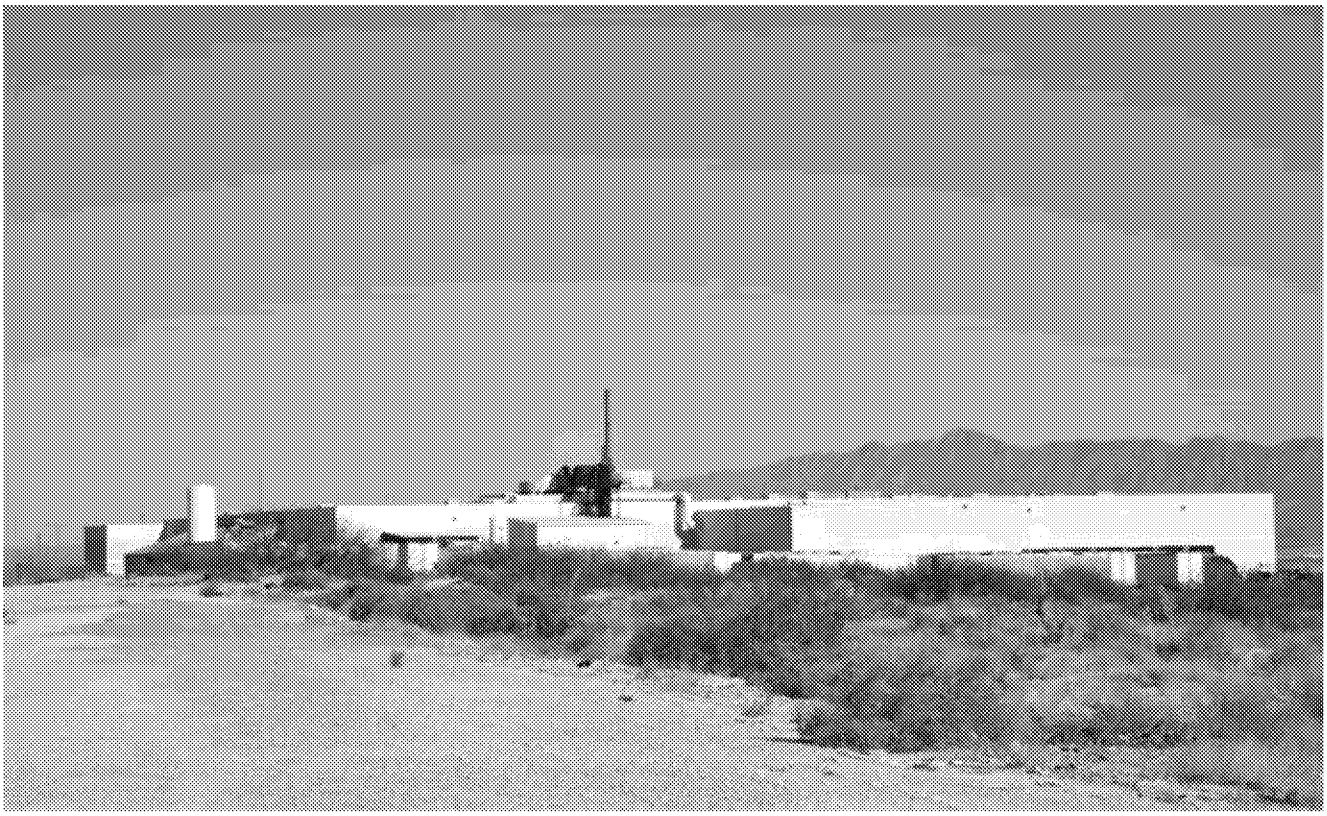
According to the attorney general's complaint, the company has reported emitting "several tons of EtO per year" in Santa Teresa yet did not account for emissions when airing out sterilization facilities by leaving doors open for hours or days, hosing off equipment into an ordinary drain, and "off-gassing" of the chemical from equipment shipped into New Mexico from the company's facility in San Diego, California.

As a result, the lawsuit contends that Santa Teresa residents and neighboring communities have been put at "significantly increased risk of developing cancer," as measured in the 2018 EPA report.



Going further, the state alleges that Sterigenics "substantially decreased its reported EtO emissions" after 2013, concluding that the federal study "greatly underestimates the historic impact" of the pollution and resulting cancer risk. Since 2017, the complaint adds, the company has stopped disclosing its emissions.

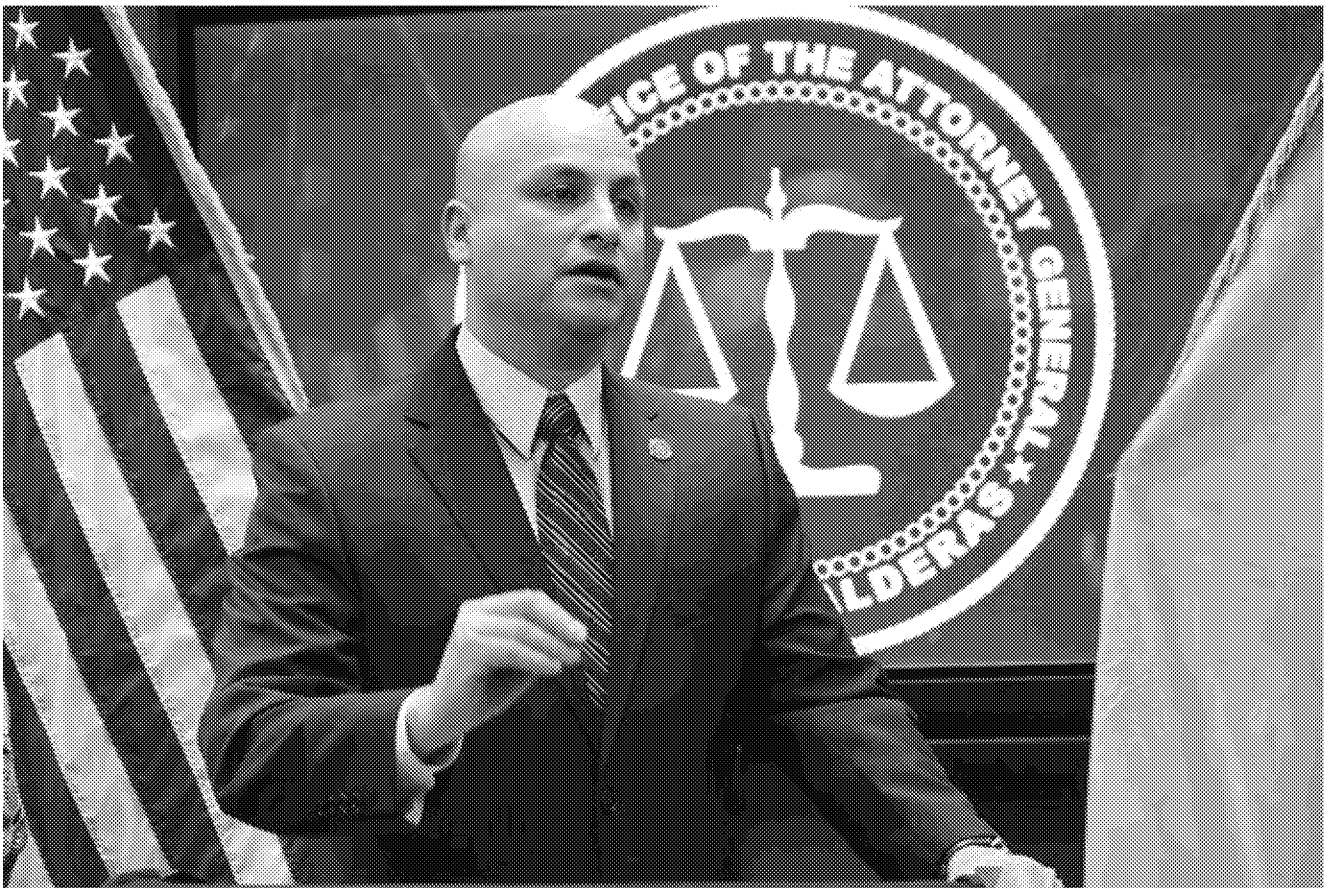
The state argues that Sterigenics misled the New Mexico Environment Department about its practices through numerous misrepresentations of the plant's physical design, air quality modeling and practices at the location, as well as underreporting its emissions.

This summer, the EPA reported that Sterigenics reduced emissions of the chemical by 83 percent between 2014 and 2016, but the state claims federal data also indicate that Doña Ana County residents in the census tract with greatest exposure had a cancer risk far greater than the national average: 214.6 per 1 million since 2014, compared to a 30 per 1 million average. Historically, the complaint states that risk may have been higher still.

The state claims that air samples it gathered within a four-mile radius of the plant showed concentrations of EtO all exceeded federal cancer risk levels.

'Industrial companies must follow the law'

The lawsuit seeks a temporary restraining order and preliminary injunction halting emissions from the plant that are not treated to remove the chemical. It does not seek an order closing the plant altogether.



The suit also seeks compensatory and punitive damages.

“Industrial companies must follow the law and maintain the highest safety standards for all communities," Balderas stated in a news release, "and it is not fair to exploit poor communities of color when they deserve protection with their health and safety."

In response, the company has sought to remove the case to federal court, citing a number of federal laws and agency regulations involved in the state's claims, as well as the limited number of facilities providing ethylene oxide sterilization nationwide and the potential impact of the facility's closure. The COVID-19 pandemic has only intensified pressure on the need for its services, the company's motion claims.

The Attorney General's Office opposed the company's motion, arguing there are no overriding federal interests at issue.

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