

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

)
In re:)
RCRA Permit KSD 044625010)
Farmland Industries, Inc.)
Dodge City, Kansas)
)
_____)

Case No. 03-E-0092

**ASSENTED TO MOTION TO WITHDRAW
MOTION FOR RECONSIDERATION**

~~Koch Nitrogen Company~~ ("KNC")¹ files this motion seeking an order allowing KNC to withdraw its Motion for Reconsideration filed with the Kansas Department of Health and Environment ("KDHE") on April 23, 2003. As grounds for this Motion, KNC states that the parties to this proceeding entered into a settlement agreement set forth in a letter dated January 15, 2004 (the "Settlement Agreement").² A true and correct copy of the Settlement Agreement is attached hereto as Exhibit A. The conditions established in said agreement as necessary for the withdrawal of the Petition for Review have been met and consequently, pursuant to the terms of the Settlement Agreement, the dispute between the parties concerning Part I of the Resource Conservation and Recovery Act Post Closure Permit at issue has been resolved.

The parties each agree to bear their own costs and attorneys' fees. KDHE has assented to this Motion.

• _____
¹ KNC was substituted as the petitioner in this matter by order dated June 2, 2003.

² The Settlement Agreement includes settlement of a parallel proceeding before the Environmental Appeals Board of the United States Environmental Protection Agency (Appeal No. RCRA 03-01).

RCRA



531823

Respectfully Submitted,
KOCH NITROGEN COMPANY
By its attorneys,



Parthenia B. Evans, Ks. Sup. Ct. # 12987
STINSON MORRISON HECKER LLP
2600 Grand Blvd.
Kansas City, MO 64108
Phone: 816/691-3127
Fax: 816/474-4208

Dated: July 13, 2004

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Koch Nitrogen Company, hereby certifies that on this 13th day of July, 2004, a true and correct copy of the above and foregoing **ASSENTED TO MOTION TO WITHDRAW MOTION FOR RECONSIDERATION** was served upon the following persons by federal express overnight delivery:

Roderick L. Bremby, Secretary
Kansas Department of Health and Environment
Office of the Secretary
Curtis State Office Building
1000 SW Jackson Street, Suite 540
Topeka, Kansas 66612-1368

William Anderson, Esquire
Attorney
Kansas Department of Health and Environment
Office of Legal Services
Curtis State Office Building
1000 SW Jackson Street, Suite 560
Topeka, Kansas 66612-1368

By: 