



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

DEC 30 2008

VIA FEDERAL EXPRESS OVERNIGHT  
AND E-MAIL

Laurie C. Sahatjian  
Associate General Counsel  
Environmental Health & Safety  
Koch Industries, Inc.  
4111 East 37<sup>th</sup> Street North  
Wichita, Kansas 67220

RE: Request for Class 1 Permit Modification  
Koch Nitrogen Company – Dodge City, Kansas  
KSD 044625010

Dear Ms. Sahatjian:

The Environmental Protection Agency Region 7 (“EPA”) has reviewed your December 12, 2008 letter requesting a modification to Koch Nitrogen Company’s (“KNC”) current RCRA Hazardous Waste Management Permit (Part II) (“Permit”), which was originally issued on March 21, 2003. The reason for this permit modification request was KNC’s scheduled merger on December 31, 2008 into the newly created Koch Nitrogen Company, LLC (“KNCLLC”) entity for tax purposes.

The regulations at 40 C.F.R. § 270.40(b) state: “Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval” of EPA. They also require that the new owner or operator submit “a revised permit application no later than 90 days prior to the scheduled change.” EPA was not made aware of the impending merger until early December, therefore, this notice requirement was not met. I trust that in the future, KNC will be more mindful of all the deadlines and requirements in the RCRA permitting regulations.

However, given the unique factual circumstances of this request, I am hereby approving this particular permit modification request. In doing so, I considered the following:

1. KNC’s written statement to EPA that following the upcoming merger, KNCLLC will accept all of KNC’s liabilities and responsibilities under the Permit.
2. KNC’s written statement to EPA that the merger will not result in any operational or ownership changes at the facility. It is EPA’s understanding that the parent company and owner

489665



RCRA



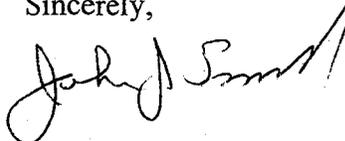
of KNC and KNCLLC will remain the same (i.e., Koch Mineral Services, LLC), and that the current officers and facility employees will also remain the same.

3. It is EPA's understanding that KNC has made a similar Class I permit modification request to the Kansas Department of Health and Environment (KDHE) for Part I of the Permit, and KDHE will approve this request by December 31, 2008.

As you know, as a result of this permit modification, KNCLLC must comply with several other requirements in 40 C.F.R. § 270.40(b) and 270.42(a). In particular, KNCLLC must demonstrate compliance with the financial assurance requirements of 40 C.F.R. part 264, subpart H to EPA, no later than six months from the date of the change of ownership or operational control of the facility. In addition, KNCLLC must send notice of this modification, within 90 days after EPA approves the modification request, to all persons on the facility mailing list and the appropriate units of State and local government.

In closing, as of December 31, 2008, the Permittee for the above-referenced permit shall now be listed as Koch Nitrogen Company, LLC. If you have any questions about this letter, please contact Alex Chen in EPA's Office of Regional Counsel, at (913) 551-7962.

Sincerely,



*for*  
Becky Weber  
Director  
Air and Waste Management Division

Cc: Jessica E. Merrigan, Esq.

Mostafa Kamal, KDHE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
HAZARDOUS WASTE MANAGEMENT PERMIT - PART II  
EPA AUTHORIZATION UNDER THE HAZARDOUS AND  
SOLID WASTE AMENDMENTS OF 1984

Pursuant to Section 227 of the Hazardous and Solid Waste Amendments of 1984 (hereafter referred to as "HSWA"), 42 U.S.C. §6926, the United States Environmental Protection Agency (hereafter referred to as "EPA") is granted authority to issue or deny permits or those portions of permits affected by the requirements established by HSWA. By this authority and pursuant to Sections 3001(g), 3001(h), 3002(b), 3004(d)- (g), 3004(m), 3004(n), 3004(u), 3004(v) and 3005 of the Resource Conservation and Recovery Act (RCRA) as amended by HSWA, 42 U.S.C. §§6921(g), 6921(h), 6922(b), 6924(d)- (g), 6924(m), 6924(n), 6924(u), 6924(v), and 6925, EPA hereby grants to Koch Nitrogen Company, LLC as Owner, and Koch Nitrogen Company, LLC Dodge City Nitrogen Plant as Operator (hereafter referred to as "the Permittee"), EPA RCRA ID Number KSD044625010, permission to perform activities required by HSWA at their facility located approximately three miles east of Dodge City, Kansas on the south side of U.S. Highway 50, in accordance with the conditions of Part II of this permit. The mailing address is P.O. Box 1337, Dodge City, Kansas 67801; Latitude: 37°, 46' 36" and Longitude: 99°, 55' 45" .

Part II of this permit addresses the corrective action requirements for solid waste management units and other HSWA requirements as administered and enforced by EPA. Applicable regulations are found in 40 CFR Parts 260 through 264, 268, 270, and 124, as specified in Part II of this permit. In issuing this permit, the Regional Administrator's delegated representative has determined in accordance with 40 CFR 264.90(f) that the regulated unit addressed in Part I of this permit is situated among solid waste management units (or areas of concern), a release has occurred, both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release, and it is not necessary to apply the groundwater monitoring and corrective action requirements of §§264.91 through 264.100 because alternative requirements for groundwater monitoring and corrective action implemented under this permit will protect human health and the environment

All regulations cited in Part II of this permit refer to regulations in effect on the date of this permit issuance. With the exception of regulations in existence at the time of permit issuance and referenced in Part II of this permit, the only other RCRA regulations applicable to this facility during the life of Part II of this permit will be self-implementing regulations.

The Regional Administrator of EPA Region 7 has delegated authority to perform all actions necessary to issue, deny, modify, or revoke and reissue permits for owners and operators of hazardous waste treatment, storage, and disposal facilities pursuant to Section 3005 of RCRA to

the Director of Region VII Air, RCRA, and Toxics Division (hereafter referred to as "Director") or the Director's designated representative, by delegation No. R7-8-6; January 1, 1995.

Part II of this permit is based on the assumption that the information in the permit application, submitted by the Permittee on February 27, 1990, modified January 23, 1996, modified and resubmitted September 9, 2001, (hereafter referred to as "the application") is accurate and that the facility will be operated as specified in the application.

Any inaccuracies found in the application or other submitted information may be grounds for the termination, revocation and reissuance, or modification of Part II of this permit in accordance with 40 CFR §§270.41, 270.42, and 270.43, or for enforcement action. The Permittee must inform EPA of any deviation from or changes in the application that would affect the Permittee's ability to comply with Part II of this permit.

Part II of this permit shall become effective at 12:01 AM on July 12, 2004, and shall remain in effect until April 24, 2013 unless revoked and reissued, terminated or continued in accordance with 40 CFR §§270.41, 270.43, and 270.51. It shall remain in effect even if Part I is terminated or has expired.

Done at Kansas City, Kansas, this 9th day of June 2004.

/s/  
\_\_\_\_\_  
William A. Spratlin  
Director  
Air, RCRA, and Toxics Division

Modifications have been incorporated into this permit and will become effective **December 31, 2008**.

*for* Johanna  
\_\_\_\_\_  
Becky Weber, Director  
Air and Waste Management Division  
12/22/08  
\_\_\_\_\_  
Date