

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

_____	)	
In re:	)	
	)	
Koch Nitrogen Company	)	RCRA Appeal No. 03-01
	)	
RCRA Permit No. KSD044625010	)	
	)	
_____	)	

**ORDER DISMISSING PETITION FOR REVIEW**

Through the Petition for Review, dated April 23, 2004, the Petitioner -- now under the name of Koch Nitrogen Company (“Koch”)<sup>1</sup> -- sought Board review of the conditions of part of a Resource Conservation and Recovery Act (“RCRA”) permit, which was jointly issued by the United States Environmental Protection Agency, Region VII (“Region”) and the Kansas Department of Health and the Environment (“KDHE”).<sup>2</sup>

By motion dated July 14, 2004, Petitioner seeks an order allowing Petitioner to withdraw its Petition for Review in the above-captioned matter. Petitioner states that the parties to this

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<sup>1</sup> Farmland Industries (“Farmland”) originally filed the Petition for Review in the above-captioned matter. Subsequently, Koch substituted for Farmland as the Petitioner based on Koch’s acquisition of all right, title, and interest to certain assets, properties, rights and claims of Farmland. *See* Notice of Transfer of Interest and Request for Substitution of Parties (May 28, 2003); *see also* Order Granting Request for Substitution of Parties (June 12, 2003).

<sup>2</sup> Petitioner sought Board review of Part II of the RCRA permit -- which the Region issued -- and Petitioner has been separately appealing Part I of the RCRA permit -- which KDHE issued -- under a parallel proceeding before KDHE. Petitioner states that a settlement has been reached in the parallel proceeding.

proceeding have entered into a settlement agreement, that the conditions established in the settlement 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 this proceeding has been resolved.

For good cause shown, the Board approves Petitioner's withdrawal of its Petition for Review, and the Board hereby dismisses with prejudice the Petition for Review filed before the Board, in its entirety.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: July 27, 2004

By: \_\_\_\_\_/s/\_\_\_\_\_  
Scott C. Fulton  
Environmental Appeals Judge

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Dismissing Petition for Review, in the matter of Koch Nitrogen Company, RCRA Appeal No. 03-01, were sent to the following persons by the method indicated:

### **By Certified Mail, Return Receipt Requested:**

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Dated: July 27, 2004

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/s/  
Annette Duncan  
Secretary