



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 27 2010

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7009 1680 0000 7665 2193
RETURN RECEIPT REQUESTED

Mr. Thomas G. Safley
Senior Counsel
Environmental Health & Safety
Koch Industries Inc.
4111 East 37th Street North
Wichita, Kansas 67201

Re: Koch Pipeline Company LP
EPA ID No.: ILD 984 849 976
Consent Agreement and Final Order
Docket No.: RCRA- RCRA-05-2010-0016

Dear Mr. Safley:

Enclosed, please find one of two original signed copies of a fully executed Consent Agreement and Final Order (CAFO) in resolution of the reference case. We filed the originals with the Regional Hearing Clerk on JUN 09 2010

Please pay the civil penalty of \$9,238.00 in accordance with paragraph 25 of this CAFO, and reference your check with the number BD 2751042R013 and Docket Number RCRA- RCRA-05-2010-0016. Also, enclosed is a *Notice of Securities and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings*.

Thank you again for your cooperation in resolving this matter.

Sincerely,

Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. RCRA-05-2010-0016
)	
Koch Pipeline Company LP)	Proceeding to Commence and Conclude
Hartford, Illinois)	an Action to Assess a Civil Penalty
)	Under Section 3008(a) of the Resource
)	Conservation and Recovery Act,
Respondent.)	42 U.S.C. § 6928(a)

Consent Agreement and Final Order

Preliminary Statement

RECEIVED
JUN - 9 2010

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

1. This is an administrative action commenced and concluded under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules)* as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. EPA provided notice of commencement of this action to the State of Illinois pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
4. Respondent is Koch Pipeline Company LP, a partnership doing business in the State of Illinois.

5. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

6. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

7. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

8. Jurisdiction for this action is conferred upon EPA by Sections 3006, and 3008 of RCRA; 42 U.S.C. §§ 6926, and 6928.

9. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

10. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

11. Respondent certifies that it is complying fully with RCRA, 42 U.S.C. §§ 6901 – 6939e and the regulations at 40 C.F.R. §§ 260 – 279 at the crude oil pipeline station in Hartford, Illinois.

Statutory and Regulatory Background

12. EPA has promulgated regulations, codified at 40 C.F.R. Parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store, and dispose of hazardous waste, pursuant to sections 3002, 3003, and 3004 of RCRA, 42 U.S.C. §§ 6922, 6923, and 6924.

13. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

14. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective January 31, 1986. 51 Fed. Reg. 3778 (January 31, 1986).

15. Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified period of time, or both. The Administrator of EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. Part 19, EPA may assess a civil penalty of up to \$32,500 per day for each violation of Subtitle C of RCRA that occurred after March 15, 2004 and before January 12, 2009.

Factual Allegations and Alleged Violations

16. Respondent was and is a "person" as defined by 35 IAC § 720.110, and Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent operates a crude oil pipeline station in Hartford, Illinois.

18. At all times relevant to this Complaint, Respondent created solid wastes including tank cleanout wastes.

19. Respondent's processes at the facility produce several hazardous wastes identified or listed in 35 IAC §§ 721.120 - 721.131 or cause a hazardous waste to become subject to regulation under 35 IAC Parts 720-729; 40 C.F.R. Parts 260-270.

20. Respondent is a "generator," as that term is defined in 35 IAC § 720.110, [40 C.F.R. § 260.10].

21. Respondent is subject to the regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6930, or the analogous Illinois regulations as part of the applicable state hazardous waste management program for the state of Illinois or both.

22. On July 18, August 29 and September 26, 2008, Respondent voluntarily self-disclosed to EPA Region 5, potential non-compliance with RCRA under EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" Policy, 65 Fed. Reg. 19618 (April 11, 2000) (the "Audit Policy") with respect to the handling of its tank cleanout wastes in the years 2005 through 2007. Respondent's self-disclosures listed the following violations of RCRA regulations:

- a. Hazardous waste determinations, as required by 35 IAC §722.111 [40 C.F.R. §262.11];
- b. Manifesting requirements, as required by 35 IAC § 722.120 [40 C.F.R. 262, Subpart B];

- c. Labeling, marking and placard requirements, as required by 35 IAC § 722.131-133 [40 C.F.R. 262, Subpart C];
- d. Accumulation date requirements, as required by 35 IAC § 722.134 [40 C.F.R. 262, Subpart C];
- e. Recordkeeping requirements, as required by 35 IAC § 722.123(a)(3) and 722.140 [40 C.F.R. 262, Subpart D]; and
- f. Annual Report requirements, as required by 35 IAC § 722.141 [40 C.F.R. 262, Subpart D].

23. Respondent's failure to make appropriate hazardous waste determinations for its tank cleanout wastes in 2005, 2006 and 2007, and its failure to comply with the other requirements of RCRA listed in paragraph 22, above, constitute violations of those provisions of RCRA listed in paragraph 22, above.

Civil Penalty

24. Complainant determined that Respondent has met all of the terms and conditions required by the Audit Policy to eliminate the gravity-based penalties for the violations disclosed above, and, pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3) and the Audit Policy, an appropriate civil penalty to settle this action is **\$9,238.00**. In determining the penalty amount, Complainant calculated the economic benefit received by Respondent for its failures to properly dispose of hazardous waste. The civil penalty contains only the economic benefit so calculated.

25. Within 30 days after the effective date of this CAFO, Respondent must pay a \$9,238 civil penalty for the RCRA violations. Respondent must pay the penalty by one of the following methods:

a. sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

For checks sent by regular U.S. Postal Service mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

For checks sent by express mail:

U.S. Bank
Government Lockbox 979077 U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

The check must state the case title, the docket number of this CAFO and the billing document number.

b. by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message is
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the case title, the docket number of this CAFO, and the billing document number.

c. by ACH electronic funds transfer, payable to “Treasurer, United States of America”, and sent to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking

d. by on-line payment

There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below:

WWW.PAY.GOV

Enter ‘sfo 1.1’ in the Search Public Forms field.
Open form and complete required fields.

26. For payment by check, a transmittal letter, stating, Respondent’s name, the case title, Respondent’s complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Graciela Scambiaterra (LR-8J)
RCRA Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

John Tielsch (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

27. This civil penalty is not deductible for federal tax purposes.

28. If Respondent does not timely pay the civil penalty U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties,

and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

29. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

30. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

31. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

32. This CAFO does not affect Respondent's responsibility to comply with RCRA and other applicable federal, state, local laws or permits.

33. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, the EPA's RCRA Civil Penalty Policy, and the EPA's Hazardous Waste Civil Enforcement Response Policy (December 2003).

34. The terms of this CAFO bind Respondent, its successors, and assigns.

35. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

35. Each party agrees to bear its own costs and attorney's fees in this action.

36. This CAFO constitutes the entire agreement between the parties.

**IN THE MATTER OF:
Koch Pipeline Company LP
Docket No.:**

Agreed to this 14th day of May 2010.

By Respondent: Bob O'Hair
Bob O'Hair
Executive Vice President
Koch Pipeline Company, LP

United States Environmental Protection Agency, Complainant

Agreed to this 1 day of June 2010.

By Complainant: Margaret M. Guerriero
Margaret M. Guerriero
Director
Land and Chemicals Division

IN THE MATTER OF:
Koch Pipeline Company LP
Docket No.: RCRA-05-2010-0016

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this FINAL ORDER. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Ordered this 4th day of June 2010.

By: _____


Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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PROTECTION AGENCY

CASE NAME: Koch Pipeline Company LP, ILD 984 849 976
DOCKET NO: RCRA-05-2010-0016

CERTIFICATE OF SERVICE

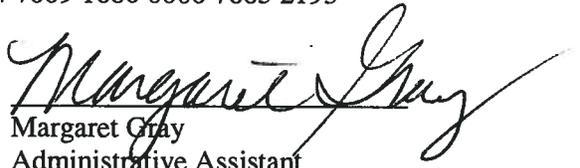
I hereby certify that today I filed the original of this **Consent Agreement and Final Order** and this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Mr. Thomas G. Safley
Senior Counsel
Koch Pipeline Company, LP
4111 East 37th Street North
Wichita, Kansas 67201

Certified Mail # 7009 1680 0000 7665 2193

Dated: 6/9 2010


Margaret Gray
Administrative Assistant
RCRA Branch,
United States Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, IL 60604-3590
(312) 353-5028

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