



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

MAR 19 2010

**VIA E-MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

William F. Ford, Esq.
Lathrop & Gage LLP
2345 Grand Boulevard, Suite 2200
Kansas City, Missouri 64108-2618

RE: Former Farmland Lawrence Nitrogen Manufacturing Plant
Lawrence, Kansas

Dear Mr. Ford:

The purpose of this letter is to respond to the request by the City of Lawrence, Kansas (City) for information regarding its obligations under the Resource Conservation and Recovery Act (RCRA) permit with respect to the former Farmland Industries Inc. Nitrogen Manufacturing Plant facility (Facility). EPA understands that the City intends to purchase the Facility property and assume responsibility for any and all environmental obligations that remain following that transaction. This letter is based on currently known information and site conditions.

EPA understands that the Kansas Department of Health and Environment (KDHE) and the City are currently developing a Consent Order which, when signed, will require the City to implement KDHE's Corrective Action Decision (CAD) signed on March 17, 2010. Specifically, the Consent Order requires that the City develop a Remedial Design/Remedial Action Work Plan for KDHE approval and implement the activities contained therein in accordance with an Implementation Schedule.

EPA reviewed a draft of this Consent Order, dated February 26, 2010. Based on EPA's review of the draft Consent Order, the final Remedial Action Plan, and the final Corrective Action Decision, it is EPA's current expectation that the City's full compliance with the Order to KDHE and EPA's satisfaction will achieve the substantive cleanup requirements of Part II of the Permit.¹ However, EPA specifically conditions this statement on the following.

First, EPA notes that as currently written, Section XV (Financial Assurance of Ability to Complete Work) of the draft Consent Order allows the City to choose from a number of instruments or mechanisms to meet its financial assurance obligations. It is EPA's understanding that to meet this obligation, the City intends to set aside approximately \$8.5 million (that it will acquire as part of the purchase of the Facility property) into an acceptable mechanism and use

¹ Because KDHE issued Part I of the permit, EPA will defer to KDHE's interpretations regarding the substantive requirements of Part I.

this amount exclusively for cleanup activities at the Facility. Any withdrawals from this set-aside will be subject to approval by KDHE and EPA. It is EPA's expectation that the City will use other acceptable financial assurance mechanisms for any remaining cleanup costs. Such mechanisms will be evaluated based on the certainty of the availability of the funds and the amount of funds assured. EPA reserves the right to require additional or alternative financial assurance.

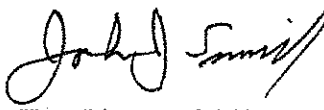
Second, EPA reserves the right to require additional corrective action should there be a change in site conditions that indicate that there was/is a release of solid waste or hazardous waste which may pose an imminent and substantial endangerment to human health and the environment, or if new information or unknown conditions come to light. In addition, EPA notes that the Consent Order, as currently constituted, is not complete. The RD/RA Work Plan and RD/RA Implementation Schedule that the City will submit pursuant to the Consent Order will still be subject to KDHE approval. Although KDHE will have the primary technical lead in reviewing these documents, EPA will continue to closely monitor the development and implementation of the remedial activities at the Facility. EPA reserves the right to take any action at a later date that is deemed necessary to protect human health, welfare or the environment.

Third, EPA recognizes that one of the City's purposes for purchasing this Facility property is for its redevelopment into community industrial, business and research park uses. This property has been vacant since Farmland ceased operations in 2001. EPA encourages the revitalization and reuse of these types of properties and looks forward to working with the City and KDHE to ensure continued protection of human health and the environment.

KDHE has requested that before the City acquires the Facility property, it will need to request a Class 1 RCRA Permit modification to transfer the ownership of record on the Permit to the City, in accordance with the procedures of 40 C.F.R. Part 270 subpart D. In the interest of fostering and encouraging this redevelopment opportunity, EPA is also willing to evaluate a Class 1 RCRA Permit modification(s) to remove portions of the Site from the existing permit on a case-by-case basis, as the Facility cleanup and redevelopment progresses.

If you have any questions about this letter or would like to discuss these issues further, please do not hesitate to contact me at (913) 551-7184, or Alex Chen of EPA Region 7's Office of Regional Counsel, at (913) 551-7962.

Sincerely,


for Kurt Limesand, PE
Project Manager