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January 31, 2014

**By FedEx and Electronic Mail**

Attn: Compliance Tracker, AE-17J  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency  
Region 5  
77 W. Jackson Boulevard  
Chicago, IL 60604

Nicole Cantello  
Bonnie Bush  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60647  
Cantello.Nicole@epa.gov  
Bush.Bonnie@epa.gov

**Re: Koch Carbon, LLC – Response to EPA Information Request Dated December 30, 2013**

Dear Ms. Cantello and Ms. Bush:

This letter and its attachments are hereby submitted as a response to the above-referenced December 30, 2013 request for information, issued by the United States Environmental Protection Agency (“EPA”) to Koch Carbon, LLC (“Koch Carbon”) pursuant to Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a).

In your electronic message of January 14, 2014, EPA agreed to certain modifications and clarifications of the original information request. Koch Carbon’s understanding of the requests as modified is indicated with respect to each request below.

Koch Carbon has engaged in considerable effort to ensure that its submissions are complete, responsive, and useful to the Agency. Koch Carbon makes the following general qualifications and objections to EPA’s request:

- Koch Carbon objects to the request insofar as it seeks privileged information, including any and all communications and documents that are protected from disclosure by either the attorney-client communication privilege or attorney work-product doctrine.
- Koch Carbon objects to the request to the extent it improperly seeks information beyond the scope of EPA's authority under Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a), and therefore is not a proper exercise of EPA's information-gathering authority.
- Koch Carbon objects to the request to the extent it is vague, ambiguous, overbroad, or unduly burdensome.
- Koch Carbon reserves the right to supplement and revise its response, and reserves the right to assert additional objections as it continues to evaluate its response.
- Koch Carbon requests confidential treatment for the documents and information designated as "confidential business information" ("CBI") to the extent information in the files and documents is designated confidential.

Accordingly, notwithstanding the foregoing, and without waiving any of the foregoing qualifications and objections, below Koch Carbon has included the relevant numbered request followed by Koch Carbon's response. The numbers of the responses below correspond to the numbers of the specific request included in Appendix B of the December 30, 2013 request.

**Request No. 1:**

- Provide a list of all locations in Region 5 that Koch owned or operated for storage of petroleum coke from 2004 through the present. For each location, identify the following:
- a. The owner or operator of the petroleum coke storage or handling during the entire period you owned or handled petroleum coke at that site;
  - b. The dates Koch first and last stored or handled petroleum coke at the site and all intervening dates when shipments were accepted at the site and when shipments were transported off the site;
  - c. The dates and amounts (in tons) of each shipment from 2009 to the present; and
  - d. Detailed descriptions of any measures taken to prevent fugitive emissions from each pile.

**Response to Request No. 1:**

As reflected in EPA's January 14th electronic message, Koch Carbon understands this Request to require it to identify, as to sites that Koch Carbon owned or operated in Region 5:

- a. The owner(s) or operator(s) of such sites at which Koch Carbon staged or handled petroleum coke since January 1, 2004;
- b. For the sites identified in (a) above, the first and last date petroleum coke was staged or handled there;
- c. For the sites identified in (a) above for the period 2009 to the present, the monthly throughput expressed in tons of petroleum coke; and

- d. For the sites identified in (a) above, descriptions of the measures taken to prevent fugitive emissions from piles.

Koch Carbon notes that subsection (a) appears to inadvertently omit the word "site" from "the owner or operator of the petroleum coke storage or handling [site] during the entire period you owned or handled petroleum coke at that site," and interprets that portion of the request accordingly.

Koch Carbon objects to this Request to the extent it implies that Koch Carbon "stores" or accepts for "storage" any petroleum coke. For purposes of identifying responsive information, Koch Carbon interprets these terms to refer to staging, rather than storage, of petroleum coke.

Koch Carbon responds that, to the best of its knowledge, it has not owned or operated any locations within the scope of this Request.

Scott Lebbin (Vice-President of Operations – Koch Minerals, LLC) and Richard Schlies (Manager of Transportation – Koch Minerals, LLC) were consulted in preparation of this response.

**Request No. 2:**

Identify all locations owned or operated by Koch currently used for petroleum coke storage or handling in Region 5.

**Response to Request No. 2:**

Koch Carbon objects to this Request to the extent it implies that Koch Carbon "stores" or accepts for "storage" any petroleum coke. For purposes of identifying responsive information, Koch Carbon interprets these terms to refer to staging, rather than storage, of petroleum coke.

Koch Carbon responds that, to the best of its knowledge, it does not own or operate any locations within the scope of this Request.

Scott Lebbin (Vice-President of Operations – Koch Minerals, LLC) and Richard Schlies (Manager of Transportation – Koch Minerals, LLC) were consulted in preparation of this response.

**Request No. 3:**

Identify all locations owned or operated by Koch where future petroleum coke storage or handling is planned, permitted, or zoned in Region 5. Continue to identify and notify EPA of such sites through December 31, 2015. For each location, identify the date Koch plans to use the location and the date when operations commence. Provide an explanation for how and why the location was chosen.

### **Response to Request No. 3:**

Koch Carbon objects to this Request as improperly issued under Clean Air Act Section 114(a), 42 U.S.C. § 7414(a), because the information sought is not necessary to serve any of the purposes outlined in Section 114(a)(i), (ii), or (iii). Any future petroleum coke staging or handling by Koch Carbon is not currently subject to regulation under the Clean Air Act and therefore is not within the scope of EPA's authority under Section 114(a). Koch Minerals further objects to the request insofar as EPA seeks to require Koch Minerals to "[c]ontinue to identify and notify EPA of such sites through December 31, 2015," as beyond the scope of EPA's Clean Air Act Section 114(a) authority. Furthermore, information regarding "how and why" any location for petroleum coke staging or handling "was chosen" is not relevant to Clean Air Act compliance and therefore is also outside EPA's Section 114(a) authority.

In its January 14th electronic message, EPA modified this request to require Koch Carbon to submit documents regarding locations that Koch Carbon owns or operates "where there is a current permit application, current permit or current permit that does not prohibit the storage of petcoke." It is Koch Carbon's understanding that air permits issued by state and federal authorities do not typically "prohibit" the handling of a bulk material. Nonetheless, Koch Carbon responds that to the best of its knowledge, it does not own or operate any locations within the scope of this Request at this time.

Koch Carbon welcomes discussion with EPA regarding the purpose and scope of this Request.

### **Request No. 4:**

For all petroleum coke Koch owns or owned that was stored or handled by Detroit Bulk Storage at 115 Rosa Parks Boulevard, Detroit, Michigan, identify each location to which that petroleum coke has been transported. Provide the name of the entity that owns each location with the complete address along with copies of all supporting documentation.

### **Response to Request No. 4:**

In its January 14th electronic message, EPA modified this request to require Koch Carbon to submit "information regarding the users or end users in Region 5 only." Further, EPA clarified that Koch Carbon should submit "just locations" of users, and that EPA "do[es] not require all back up information."

In response to Request No. 4, Koch Carbon responds that petroleum coke that it owned that was stored or handled by Detroit Bulk Storage at 115 Rosa Parks Boulevard, Detroit, Michigan, was transported to the following locations in Region 5:

Carmeuse Lime, Inc., 410 Rockwell Road, Manitowoc, WI 54220  
DTE Electric Company, 3500 East Front Street, Monroe, MI 48161  
Georgia-Pacific Consumer Products LP, 1919 South Broadway, Green Bay, WI 54307



Gramont Dolime (OH) Inc., 21880 Ohio 163, Genoa, OH 43430

David Stout (General Manager West Coast Pet Coke – Koch Carbon, LLC), Kathy Jordan (Carbon Process Improvement Manager – Koch Carbon, LLC), Michael Albrecht (Manager, North American Pet Coke Marketing – Koch Carbon, LLC) were consulted in preparation of this response.

**Request No. 5:**

For all petroleum coke Koch owns or owned that was stored or handled by Detroit Bulk Storage in River Rouge, Michigan, identify each location to which that petroleum coke has been transported. Provide the name of the entity that owns each location with the complete address along with copies of all supporting documentation.

**Response to Request No. 5:**

In its January 14th electronic message, EPA modified this request to require Koch Carbon to submit "information regarding the users or end users in Region 5 only." Further, EPA clarified that Koch Carbon should submit "just locations" of users, and that EPA "do[es] not require all back up information."

In response to Request No. 4, Koch Carbon responds that petroleum coke that it owned that was stored or handled by Detroit Bulk Storage at River Rouge, Michigan, was transported to the following locations in Region 5:

Carmeuse Lime, Inc., 410 Rockwell Road, Manitowoc, WI 54220  
Carmeuse Lime, Inc., 1967 West County Road #42, Maple Grove, OH 44815  
Georgia-Pacific Consumer Products LP, 1919 South Broadway, Green Bay, WI 54307

David Stout (General Manager West Coast Pet Coke – Koch Carbon, LLC), Kathy Jordan (Carbon Process Improvement Manager – Koch Carbon, LLC), Michael Albrecht (Manager, North American Pet Coke Marketing – Koch Carbon, LLC) were consulted in preparation of this response.

The certification requested in the December 30, 2013 information request is attached hereto.

Koch Carbon stands willing to discuss the foregoing responses with EPA at a mutually convenient time.

Sincerely,

  
Adam M. Kushner

Partner  
adam.kushner@hoganlovells.com  
(202) 637-5724

**Koch Carbon Certification of January 31, 2014**

**Response To**

**EPA's December 30, 2013 Clean Air Act Section 114(a) Information Request**

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act and 18 U.S.C. §§ 1001 and 1341.



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Joseph Hand  
Senior Vice-President  
Koch Carbon LLC