

September 22, 2009

Russ Kimble  
Texas Register Team  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
MC 205, Bldg A, Room 166  
Austin, TX 78711

RE: Rulemaking Petition Submitted by K-3 Resources, LP Requesting the Adoption of an Amendment to the Financial Assurance Requirements Applicable to Class B Sewage Sludge Land Application Facilities, 30 T.A.C. § 37.9105(b)(2)

Dear Mr. Kimble:

In connection with the above-referenced petition for rulemaking, K-3 Resources, LP ("K-3") requests that TCEQ not only to adopt the recommended amendment to 30 T.A.C. § 37.9105(b)(2), *but to do so on an emergency basis* pursuant to Texas Government Code § 2001.034, and 30 T.A.C. § 20.17.

Those sections provide that the Commission may adopt an emergency rule without prior notice or hearing, or with abbreviated notice or hearing, where there is imminent peril to public health, safety, or welfare so long as the agency states its reasons for this finding in writing. By adopting the recommended rule on an emergency basis, the Commission can make the rule effective for up to 120 days with an additional 60 day extension available. We request that the Commission do so here, making the amended rule effective on an emergency basis on the earliest possible date.

Simply put, K-3 is concerned that following the ordinary notice and comment schedule for this requested rulemaking – which schedule would presently provide for the issuance of a proposed rule by no earlier than November 4, 2009 – will result in a rule change that only becomes effective after TCEQ's stated November 30, 2009 deadline for withdrawing the relevant Class B sewage sludge land application permits. K-3 believes that an imminent threat to public health, safety, and/or welfare would exist if those permits were pulled for noncompliance with Section 37.9105 prior to the rule being amended to removing the automatic renewal requirement. The loss of such permits would result in the immediate loss of environmentally beneficial options for

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prompt and proper management of hundreds of thousands of tons of sewage sludges, greatly heightening the risk that such sludges would unnecessarily accumulate, be mismanaged, or wastefully consume scarce landfill space, not to mention the loss of valuable jobs and economic resources. K-3 believes that such an outcome would present a real and imminent threat to health, safety, and/or welfare in Texas. Accordingly, we request that the Commission make the amendment requested in the above-referenced petition effective on an emergency basis on the earliest possible date.

Should you have any questions, you can reach me at (512) 542-2134.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Timothy A. Wilkins". The signature is fluid and cursive, with a large initial "T" and "W".

Timothy A. Wilkins

cc: Mark R. Vickery, Executive Director