

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)
)
Carbon Injection Systems LLC,) Docket No. RCRA-05-2011-0009
Scott Forster,)
and Eric Lofquist,)
)
Respondents.)

**RESPONDENTS CARBON INJECTION SYSTEMS LLC, SCOTT FORSTER AND
ERIC LOFQUIST'S MOTION FOR STATUS CONFERENCE**

Respondents Carbon Injection Systems LLC ("CIS"), Scott Forster and Eric Lofquist ("Respondents"), through counsel, respectfully request that a status conference be scheduled in this matter. As grounds for this motion, respondents state as follows:

1. The parties have completed their initial and rebuttal prehearing exchanges. In its exchanges, the U.S. EPA has identified 159 exhibits totaling over twenty-four thousand (24,569) pages of documents. U.S. EPA's exchange includes voluminous amounts of information it obtained from third-parties unrelated to Respondents, including WCI Steel, Inc., Neville Chemical, Inc., Innovative Waste Management Inc., JLM Chemicals, Inc. and International Flavors and Fragrances, Inc. ("IFF"). The parties, collectively, have identified 18 lay witnesses, nine of whom are affiliated with third parties and are not employed by or associated with either U.S. EPA or the Respondents. Four such individuals are current or former employees of IFF. Additionally, the parties, collectively, have identified nine expert witnesses.

2. Prior to the prehearing exchanges, respondents moved for an administrative subpoena in order to take the deposition of a corporate representative of IFF. In an order dated

RECEIVED
REGIONAL HEADING
U.S. EPA
01/05/11 - 5 PM

August 5, 2011, Chief Administrative Law Judge Biro deferred Respondents' motion and indicated that Respondents may renew their motion following the prehearing exchange. In the event that IFF declines to make those of its employees that now have been specifically identified as witnesses available voluntarily, Respondents intend to modify their motion and re-file it to request administrative subpoenas directed to such individuals, rather than a corporate representative to be designated by IFF. It may be necessary and appropriate for the parties to subpoena other third-party witnesses, as well.

3. On November 28, 2011, Chief Administrative Law Judge Biro issued a scheduling order that provides for pre-hearing motions to be filed by January 6, 2012, for the parties to file their Joint Set of Stipulated Facts, Exhibits and Testimony by January 27, 2012, for pre-hearing briefs to be filed by February 10, 2012, and setting the hearing to commence on February 28, 2012, and continue to March 16, 2012 as necessary.

4. Given the involvement of third parties and the volume of information that has been exchanged, Respondents believe that more time is needed to prepare for the hearing than is provided by the scheduling order. In addition, Respondents believe that there may be opportunities to significantly streamline the hearing and otherwise gain efficiencies by, for example, conducting third-party discovery (which may lead to the parties being able to enter into stipulations and the elimination of some witnesses), recording the testimony of third-party witnesses for use at the hearing, narrowing the issues through dispositive, or partially dispositive motions, and potentially bifurcating the hearing.

5. USEPA, through its counsel, has indicated it does not oppose this motion as to a proposed status conference, but does not agree with the points raised by Respondents concerning the need for extending the pre-hearing schedule as to certain issues.

6. For all of these reasons, Respondents request a status conference for the purpose of discussing these matters and for extending the present schedule.

Respectfully submitted,

Keven Drummond Eiber
Meagan L. Moore
BROUSE MCDOWELL
600 Superior Avenue East
Suite 1600
Cleveland, OH 44114
Tel: (216) 830-6816
Fax: (216) 830-6807
keiber@brouse.com
mmoore@brouse.com



Lawrence W. Falbe
QUARLES & BRADY LLP
300 N. LaSalle Street, Suite 4000
Chicago, IL 60654
Tel: (312) 715-5223
Fax: (312) 632-1792
larry.falbe@quarles.com

*Attorneys for Respondents Carbon Injection
Systems LLC, Eric Lofquist and Scott Forster*

In the Matter of: Carbon Injection Systems LLC, Scott Forster, and Eric Lofquist,
Respondents, Docket No. RCRA-05-2011-0009

CERTIFICATE OF SERVICE

I, Lawrence W. Falbe, an attorney, hereby certify that the foregoing Respondents Carbon Injection Systems LLC, Scott Forster and Eric Lofquist's Motion for Status Conference was sent on December 5, 2011, in the manner indicated, to the following:

Original and One Copy by hand delivery to:

LaDawn Whitehead
Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604



Copy by Overnight Delivery to:

The Honorable Susan L. Biro, Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Mail Code 1900L
Washington, DC 20460

Copy by E-mail and Regular Mail to:

Steven Sarno (sarno.steve@epamail.epa.gov)
Office of Administrative Law Judges
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, DC 20460

Catherine Garypie, Esq. (garypie.catherine@epamail.epa.gov)
Matthew Moore, Esq. (moore.matthew@epamail.epa.gov)
Office of Regional Counsel
U.S. EPA Region 5
77 West Jackson Blvd.
Chicago, IL 60622

Keven Eiber, Esq. (keiber@brouse.com)
Meagan Moore, Esq. (mmoore@brouse.com)
Brouse McDowell
600 Superior Avenue East
Suite 1600
Cleveland, OH 44114

Dated: December 5, 2011

A handwritten signature in cursive script that reads "Lawrence W. Falbe". The signature is written in black ink and is positioned above a horizontal line.

Lawrence W. Falbe