

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) **Docket No. RCRA-05-2011-0009**
)
Carbon Injection Systems, LLC,)
Scott Forster,)
Eric Lofquist,)
)
Respondents.)

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5

**COMPLAINANT'S MOTION TO EXTEND RESPONSE DEADLINE FOR ITS
RESPONSES TO RESPONDENTS' MOTIONS IN LIMINE**

Comes now Complainant, the United States Environmental Protection Agency, Region 5 (Complainant), by and through its counsel, pursuant to Rule 22.16 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules or Rules), hereby files Complainant's Motion to Extend Response Deadline for Its Responses to Respondents' Motions in Limine.

In an Agreed Motion for Modifying the Pre-Hearing Schedule filed on April 6, 2012, the parties requested that the deadline for filing Motions *in limine* be moved to May 18, 2012. On April 10, 2012, this Court issued an Order on Agreed Motion for Modifying the Pre-Hearing Schedule. In the order, the Court moved the deadline to May 4, 2012. The Court also set a shorter time for response than provided in the Consolidated Rules. 40 C.F.R. § 22.16(b). The Court set the deadline for a response at May 11, 2012.

After receiving Respondents' five motions *in limine* on May 4, 2012, counsel for Complainant immediately began preparing responses to Respondents' motions *in limine*, simultaneous with a variety of other hearing preparation activities. Counsel for EPA erroneously

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believed the deadline for the deadline to be May 21, as provided in the Consolidated Rules. 40 C.F.R § 22.16(b).

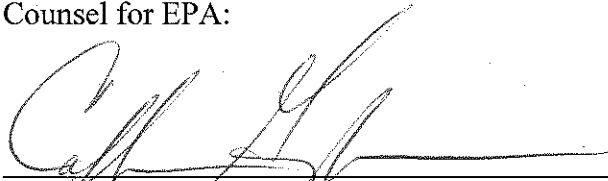
On the morning of May 15, 2012, counsel for Complainant contacted counsel for Respondents to inquire whether Respondents would agree to extend by one day (to Tuesday, May 22) the due dates for EPA's response to Respondents' motions *in limine*. This request was made because, while the U.S. EPA Region V offices are expected to remain open on Monday, staff has been advised that disruptions or building closure could occur due to NATO Summit activities occurring in Chicago on May 20 and 21, 2012 - particularly since the U.S. EPA Region V building is located in the Federal Protective Service Red Zone and since all Region V employees are being encouraged to work at home on Monday, May 21, 2012. Counsel for Respondents responded that he would not object to moving a filing deadline for this reason, but that Respondents believed that the responses were due on May 11. Upon consulting the April 10, 2012, Order, counsel for Complainant determined that responses to the motions *in limine* were in fact due on May 11. Complainant's inadvertent filing error was due to an honest oversight and Complainant hereby requests that the Court reset the due date for Complainant's response to May 22, 2012, so that Complainant may be heard on the motions filed by Respondents.

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Respectfully Submitted,

Counsel for EPA:

5/15/12
Date



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CERTIFICATE OF SERVICE

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

I certify that the foregoing "Complainant's Motion to Extend Response Deadline for Its Responses to Respondents' Motions in Limine", dated May 15, 2012, was sent this day in the following manner to the addressees listed below:

Original and one copy hand-delivered to:

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

Copy via overnight mail to:

Attorneys for Respondents:

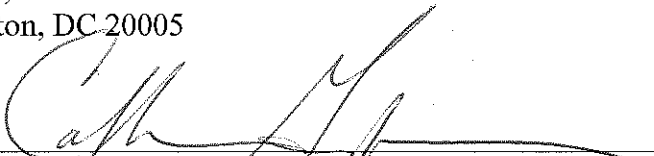
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Presiding Judge:

The Honorable Susan L. Biro, Chief Administrative Law Judge
U.S. EPA Office of the Hearing Clerk
1099 14th St. NW
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Washington, DC 20005

5/15/12
Date


Catherine Garypie, Associate Regional Counsel

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