



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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

ORDER TEMPORARILY SUSPENDING PREHEARING DEADLINES

As you were previously notified, this proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 et seq. ("Rules of Practice"). On December 8, 2011, Respondents submitted a Motion for a Revised Schedule and Renewed Motion for Third-Party Discovery ("Motion") in which the Respondents request a Stay of Proceedings for a period of 90 days. The Motion also seeks leave to conduct certain "other discovery" pursuant to 40 C.F.R. § 22.19(e). In support of its Motion, Respondents assert that third-party discovery is needed to obtain important information relevant to each count in the Complaint from entities not named as parties in the case. Respondents argue that because this information is only available from the non-named parties, additional discovery in the form of depositions is necessary to enable Respondents to defend themselves against the allegations in the Complaint. Motion at 4.

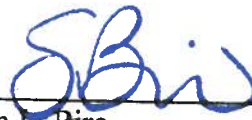
Respondents also request that the prehearing deadlines in this matter be revised in order to allow additional discovery to be completed. On November 28, 2011, this Tribunal issued an Order Scheduling Hearing in which the parties were informed of certain prehearing deadlines for various filings, including non-dispositive motions, joint stipulations, and prehearing briefs. The earliest deadline, for non-dispositive motions, is January 6, 2012. Respondents argue that suspending the deadlines and taking depositions would allow the parties to obtain critical information, determine the actual necessity of all the potential witnesses listed, and narrow the issues for hearing. Motion at 7-8.

Finally, Respondents request an expedited ruling on this Motion. Rule 22.16(b) provides that a party's response to a written motion must be filed within 15 days after service of the motion and any reply by the moving party must be filed within 10 days after service of the response. 40 C.F.R. § 22.16(b). Rule 22.7(c) further provides that 5 days shall be added to the

time allowed by the Rules for the filing of a responsive document if the initial document is not served by overnight or same-day delivery. 40 C.F.R. § 22.7(c). The Certificate of Service attached to the Motion indicates that it was served on the Regional Hearing Clerk and Complainant by hand-delivery. However, the copy of the Motion provided to this Tribunal is not date-stamped by the Clerk, nor has the Motion been loaded into the Regional Electronic Case Tracking System, thus the actual filing date cannot be determined at this time.

Assuming that the Motion was properly delivered by hand as indicated on the Certificate of Service on December 8, 2011, Complainant's response period will end on December 23, 2011. At that time, Respondents would have until January 3, 2012, to file a reply. Given the immediacy of the prehearing deadlines established in the Order Scheduling Hearing, and given the apparent merit of the Motion, there is good cause to suspend all prehearing deadlines until further notice.

Complainant is hereby **ORDERED** to submit its response to the Motion as soon as possible, but no later than December 16, 2011. Respondents are hereby **ORDERED** to submit either their reply within two business days of service of Complainant's response but no later than December 20, 2011, or a statement submitted no later than one business day after service of Complainant's response that no reply shall be offered.




Susan L. Biro
Chief Administrative Law Judge

Dated: December 13, 2011
Washington, D.C.

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

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Temporarily Suspending Prehearing Deadlines**, dated December 13, 2011, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: December 13, 2011

Original And One Copy By Regular To:

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