

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.)	
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Joint Motion for Entry of Stipulation and Protective Order Regarding Confidentiality

Comes now Complainant U.S. Environmental Protection Agency (“EPA”) and Respondents Carbon Injection Systems LLC, Scott Forster and Eric Lofquist (“Respondents”) (collectively, the “Parties”), through counsel, and respectfully file this Joint Motion for Entry of Stipulation and Protective Order Regarding Confidentiality.

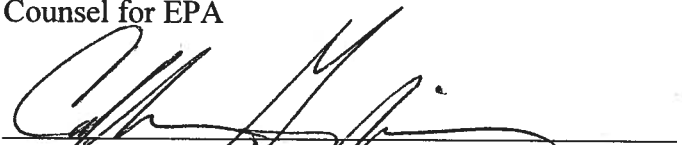
1. EPA has received various documents that the submitters claim contain information, which constitutes confidential business information pursuant to 40 C.F.R. Part 2, Subpart B or privacy information (“Documents”). The submitters have asserted that such Documents are entitled to confidential treatment. Some Documents were submitted to EPA by Respondents, and some were submitted to EPA from third parties. In addition, the Parties expect to generate Documents which contain information that was claimed confidential by Respondents or third-parties (“Document-Derived Materials”). The filing of confidential information is necessary to the just adjudication of this Administrative Proceeding.
2. EPA has released or will release some Documents and Document-Derived Materials to Respondents pursuant to 40 C.F.R. Part 2, Subpart B.

3. EPA has not made a determination as to whether the documents may be entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B.
4. EPA and Respondents do not hereby stipulate as to the admissibility of any documents which may be offered as evidence in this Administrative Proceeding.
5. In order to avoid the expense and delay attendant to any determination of confidentiality under 40 C.F.R. Part 2, Subpart B, or to any similar confidentiality determination, EPA and Respondents respectfully request the entry of the Stipulation and Protective Order Regarding Confidentiality attached hereto as Attachment A.

WHEREFORE, EPA and Respondents respectfully request the entry of the Stipulation and Protective Order Regarding Confidentiality attached hereto.

Respectfully submitted,

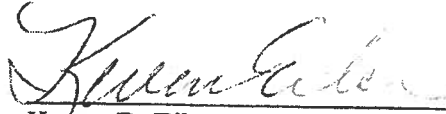
Counsel for EPA



Catherine Garypie, Associate Regional Counsel
Office of Regional Counsel
U.S. EPA Region 5
77 West Jackson Blvd.
Chicago, IL 60622
PH (312) 886-5825
Email: garypie.catherine@epa.gov

J. Matthew Moore, Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region 5
77 West Jackson Blvd.
Chicago, IL 60622
PH (312) 886-5932
Email: moore.matthew@epa.gov

Counsel for Respondents:



Keven D. Eiber
Brouse McDowell
600 Superior Avenue East
Suite 1600
Cleveland, OH 44114
PH (216) 830-6816
Email: KEiber@brouse.com

ATTACHMENT A

Proposed Stipulation and Protective Order Regarding Confidentiality

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

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

Complainant, the U.S. Environmental Protection Agency (“EPA”), and Respondents Carbon Injection Systems LLC, Scott Forster and Eric Lofquist, (“Respondents”) (collectively, the “Parties”) have hereby stipulated that EPA has received various documents that the submitters claim contain information, which constitutes confidential business information pursuant to 40 C.F.R. Part 2, Subpart B or privacy information (“Documents”). The submitters have asserted that such Documents are entitled to confidential treatment. Some Documents were submitted to EPA by Respondents, and some were submitted to EPA from third parties. In addition, the Parties expect to generate Documents which contain information that was claimed confidential by Respondents or third-parties (“Document-Derived Materials”). EPA has released or will release some Documents and Document-Derived Materials to Respondents pursuant to 40 C.F.R. Part 2, Subpart B. EPA and Respondents stipulate further that the filing of confidential information is necessary to the just adjudication of this Administrative Proceeding.

In view of this stipulation, the Court finds that good cause exists for issuance of an order regarding the handling of such Documents and Document-Derived Materials with the protective arrangements and conditions set forth below. Accordingly, upon consideration of the Joint

Motion for Entry of Stipulation and Protective Order Regarding Confidentiality, by the EPA and Respondents, IT IS HEREBY ORDERED:

1. All Documents and Document-Derived Materials served in this Administrative Proceeding, shall thereafter be handled by the Parties in accordance with the terms of this Stipulation and Protective Order (the "Protective Order").

2. Any Documents and Document-Derived Materials to be served by the Parties in this Administrative Proceeding shall be clearly stamped, marked, or otherwise identified as "Confidential".

3. The Parties, their attorneys, and representatives shall use the Documents and Document-Derived Materials for purposes of this Administrative Proceeding only and any appeals therefrom, and shall not disclose the Documents and Document-Derived Materials to third parties; provided, however, that nothing herein shall prevent the disclosure of Documents and Document-Derived Materials to the following persons:

- a. The Administrative Law Judge assigned to this Administrative Proceeding and her staff in connection with the submittal of prehearing exchanges and the presentation of evidence at any hearing in this Administrative Proceeding or appeal therefrom;
- b. counsel for the Parties and their employees and the witnesses who are actively engaged in the hearing of this matter provided that such persons agree to be bound by the provisions of this Protective Order;
- c. persons who authored or who were a recipient prior to its submittal to EPA, of a Document;
- d. consultants and experts retained by the Parties in connection with this Administrative Proceeding provided that such persons are provided a copy of this Protective Order and agree to be bound by it;
- e. commercial photocopying, document handling, and/or litigation support firms used by counsel or a Party to this proceeding for photocopying, storage, review, retrieval, duplication or production of such information provided those firms agree to treat the Documents and Document-Derived Materials as confidential; and

f. any other such person who is entitled to review such Documents and Document-Derived Materials as a result of federal or state laws or court orders.

4. The Parties and Parties' counsel who obtain Documents and Document-Derived Materials which are served in the Administrative Proceeding shall take all necessary and appropriate measures to maintain the confidentiality of the Documents and Document-Derived Materials, shall share the Documents and Document-Derived Materials only with persons authorized to receive them pursuant to this Protective Order, and shall retain the Documents and Document-Derived Materials in a secure manner. No other person shall be permitted access to these Documents and Document-Derived Materials.

5. Any person who obtains access to Documents and Document-Derived Materials may make copies, duplicates, extracts, summaries, or descriptions of the Documents and Document-Derived Materials or any portion thereof for the purpose of this Administrative Proceeding only and any appeals therefrom. All copies, duplicates, extracts, summaries, or descriptions shall be subject to the terms of this Protective Order to the same extent and manner as original documents.

6. Any Documents and Document-Derived Materials, that are filed with the Court, shall be filed in sealed envelopes or other appropriate sealed containers on which shall be endorsed the caption of this Administrative Proceeding, an indication of the nature of the contents of such sealed envelope or container, the word "CONFIDENTIAL", and a statement substantially in the following form:

"This envelope contains Documents and/or Document-Derived Materials that are filed in this case by _____ (the "filing party") and are subject to a Protective Order in this case and shall not be opened and the contents are not to be displayed or revealed except by order of the Presiding Officer."

7. All Documents and Document-Derived Materials, filed in this Administrative Proceeding shall remain confidential and shall be accorded in camera treatment.

8. Any unauthorized disclosure of Documents and Document-Derived Materials, shall not result in a waiver of any claim of confidentiality.

9. Within 60 days after termination of this Administrative Proceeding and any appeal therefrom by final judgment, entry of a consent agreement and final order, or otherwise, any person who obtained Documents and Document-Derived Materials, shall assemble and return such information to EPA, including all copies, duplicates, extracts, summaries or descriptions of the Documents and Document-Derived Materials or portions thereof. Such return shall be certified in writing by the person who obtained the information from EPA. All such information covered by this Protective Order that constitutes the work product of counsel for a party shall be destroyed; and the Regional Hearing Clerk shall maintain under seal all papers filed under seal unless the Court orders otherwise.

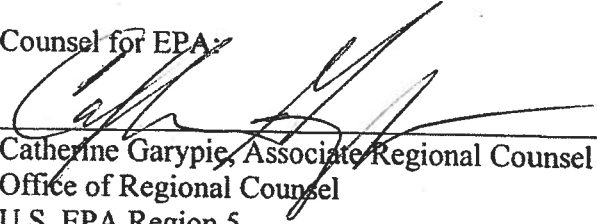
SO ORDERED

Susan L. Biro
Chief Administrative Law Judge

Dated: _____
Washington, D.C.

STIPULATED:

Counsel for EPA:



Catherine Garypie, Associate Regional Counsel
Office of Regional Counsel

U.S. EPA Region 5

77 West Jackson Blvd.

Chicago, IL 60622

PH (312) 886-5825

Email: garypie.catherine@epa.gov

J. Matthew Moore, Assistant Regional Counsel

Office of Regional Counsel

U.S. EPA Region 5

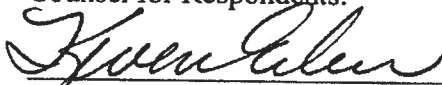
77 West Jackson Blvd.

Chicago, IL 60622

PH (312) 886-5932

Email: moore.matthew@epa.gov

Counsel for Respondents:



Keven D. Eiber

Brouse McDowell

600 Superior Avenue East

Suite 1600

Cleveland, OH 44114

PH (216) 830-6816

Email: KEiber@brouse.com

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Docket No. RCRA-05-2011-0009

REGIONAL HEARING CLERK
U.S. EPA REGION 5
2011 OCT 14 PM 2:56

CERTIFICATE OF SERVICE

I certify that the foregoing "Joint Motion for Entry of Stipulation and Protective Order Regarding Confidentiality", dated October 14, 2011, 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 Regular Mail to:

Attorneys for Respondents:

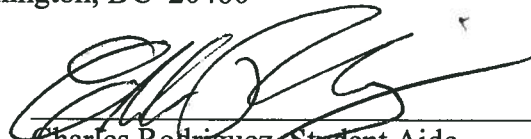
Carbon Injection Systems LLC, Scott Forster, Eric Lofquist
c/o Lawrence W. Falbe
Quarles & Brady LLP
300 N. LaSalle Street, Suite 4000
Chicago, IL 60654

Carbon Injection Systems LLC, Scott Forster, Eric Lofquist
c/o Keven D. Eiber
Brouse McDowell
600 Superior Avenue East
Suite 1600
Cleveland, OH 44114

Presiding Judge:

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

10/14/2011
Date



Charles Rodriguez, Student Aide