



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of: )
Carbon Injection Systems LLC, )
Scott Forster, )
and Eric Lofquist, )
Respondents. )

Docket No. RCRA-05-2011-0009

RECEIVED AUG 18 2011

REGIONAL HEARING CLERK U.S. ENVIRONMENTAL PROTECTION AGENCY

ORDER ON JOINT MOTION FOR STAY OF PROCEEDINGS

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 August 12, 2011, the parties filed a Joint Motion for Stay of Proceedings ("Motion") stating that they are engaged in mediation activities coordinated by the Agency's Conflict Prevention and Resolution Center ("CPRC"). The Motion notes the steps taken to date in securing a mediator and finalizing a Mediation Agreement and states that the first substantive mediation session is expected to occur by August 22, 2011. The parties request a stay of sixty (60) days in order to determine "whether a settlement can be reached in this matter." Mot. at 2.

As noted in the Prehearing Order, issued August 5, 2011, neither party accepted the invitation to participate in the Alternative Dispute Resolution ("ADR") process offered by this office. Instead, the parties are pursuing negotiations independently through the CPRC. The parties are commended for taking the initiative to resolve this matter informally and expeditiously, but are reminded that external negotiations are not affected by and do not affect the scheduling of this proceeding. Because such negotiations are outside the scope of the Rules of Practice, the accountability normally built in to this office's ADR process is absent here. Therefore, in order to allow the parties ample time to reach a settlement while retaining an acceptable level of oversight, the Motion is GRANTED subject to the following conditions.

- 1. The requirement for an August 26, 2011, Status Report is vacated.
2. The parties shall submit joint Status Reports every two weeks to apprise the undersigned of the progress made towards settlement. Status Reports will be due on the following dates:
a. August 29, 2011

- b. September 13, 2011
  - c. September 28, 2011
3. If the case is settled, a Consent Agreement and Final Order (“CAFO”) shall be filed on or before October 14, 2011. If no CAFO has been executed by that date, the Complainant shall instead file its Initial Prehearing Exchange as directed in the Prehearing Order.
  4. The Respondent’s Initial Prehearing Exchange shall be filed on or before November 4, 2011. Any rebuttal by the Complainant shall be filed on or before November 18, 2011.

**Filing and Service.** A document is “filed” when the Regional Hearing Clerk receives it. A document is “served” upon mailing or when placed in the custody of a reliable commercial delivery service. However, the parties are encouraged to send a courtesy copy to the Office of Administrative Law Judges by facsimile or email, in addition to the mailed hard copy, as physical mail delivery is often subject to significant delay. The facsimile number for the Office of Administrative Law Judges is (202) 565-0044, and the email address is oaljfiling@epa.gov. A signed certificate of service must be attached to all filed documents.

All documents served on the undersigned shall be addressed as follows if sent by regular mail:

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

All documents served on the undersigned via Federal Express or any delivery service that x-rays its packages as part of its routine security procedures may be delivered directly to:

The Honorable Susan L. Biro, Chief Administrative Law Judge  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
1099 14th Street, N.W., Suite 350  
Washington, DC 20005


(\*For commercial delivery service only)

**The parties are advised NOT to include, attach, or refer to any terms of settlement offers or agreements in any document submitted to the Presiding Judge, and no copies of Consent Agreements and Final Orders shall be submitted, or attached to any document submitted, to the Presiding Judge except those that are fully executed and filed with the Regional Hearing Clerk.**

**Contact Information.** Telephone contact may be made with my legal assistant, Maria Whiting-Beale at (202) 564-6259 to ask whether a document has been received or issued. Email or telephone contact may be made with my staff attorney, Steven Sarno, Esq., at (202) 564-6245 (sarno.steven@epa.gov) for other procedural questions.

**Courtesy Copies.** If any party wishes to receive, by e-mail or facsimile, an expedited courtesy copy of substantive orders and decisions issued in this proceeding, the party shall submit a request for such copies by letter addressed to Maria Whiting-Beale at one of the addresses above. The letter shall include the case docket number, the party's e-mail address or facsimile number, and a statement as to whether the party requests expedited courtesy copies of (a) the initial decision and/or any orders on motions for accelerated decision or dismissal, or (b) all decisions and substantive orders. The undersigned's office will endeavor to comply with such requests but does not guarantee the party's receipt of expedited courtesy copies.

**SO ORDERED.**



Susan L. Biro  
Chief Administrative Law Judge

Dated: August 15, 2011  
Washington, D.C.

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In the matter of *Carbon Injection Systems.*, Respondent.  
Docket No. RCRA-05-2011-0009

CERTIFICATE OF SERVICE

I certify that the foregoing **Order on Joint Motion for Stay of Proceedings**, dated August 15, 2011 was sent this day in the following manner to the addressees listed below.

  
\_\_\_\_\_  
Knolyn R. Jones  
Legal Staff Assistant

Original and One Copy by Pouch Mail to:

LaDawn Whitehead  
Regional Hearing Clerk  
U.S. EPA, Region V, E-19J  
77 West Jackson Blvd., 13<sup>th</sup> Floor  
Chicago, IL 60604-3590

One Copy by Pouch Mail to:

Catherine Garypie, Esq.  
Associate Regional Counsel  
U.S. EPA / Region V, C-14J  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

One Copy by Regular Mail to:

Keven Drummon Eiber, Esq.  
Meagan DeJohn, Esq.  
600 Superior Ave. East Suite 1600  
Cleveland, OH 44114-2603

Lawrence W. Falbe, Esq.  
Quarles & Brady LLP  
300 N. LaSalle Street, Suite 4000  
Chicago, IL 60654

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U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Dated: August 15, 2011**  
**Washington, D.C.**