



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of:

Carbon Injection Systems LLC, Scott Forster, and Eric Lofquist,

Respondents.

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Docket No. RCRA-05-2011-0009

ORDER REISSUING SUBPOENA

By Order issued December 27, 2011, Respondents were provided with subpoenas for four individual witnesses associated with International Flavors & Fragrances, Inc. The subpoenas directed the recipients to appear for depositions at certain times between January 23 and 25, 2012. On January 12, 2012, Respondents submitted a letter requesting the reissue of three of those subpoenas. In that letter, Respondents stated that all parties, including the deponents, had agreed to hold the depositions at later dates, mutually agreeable to all participants. The letter also stated that the parties had agreed not to request a new subpoena at this time for one witness, Donald DuRivage, anticipating that all necessary information could be gathered from the remaining three deponents. Respondents noted that should a deposition for Mr. DuRivage become necessary, they would address this need with all haste. An order giving effect to this agreement was issued on January 17, 2012.

The parties now agree that a deposition for Mr. DuRivage is necessary and have agreed to a date and time for the deposition. On February 3, 2012, Complainant moved for issuance of a subpoena directed to Mr. DuRivage. In their Response to that Motion, Respondents requested the reissuance of the subpoena previously issued to Mr. DuRivage, to include express instructions that Respondents' counsel be afforded first opportunity to ask questions of the witness. Respondents' request is hereby granted and the existing subpoena will be revised and reissued. Complainant's Motion is denied as moot.

1 It appears from the draft subpoenas exhibited to Complainant's Motion and Respondents' Reply respectively that a mutually agreeable location for the deposition has not yet been found. The undersigned is confident that counsel for the parties will be able to resolve this remaining detail between themselves.

The revised subpoena *duces tecum* is enclosed with the copy of this Order sent to Respondent's Counsel, Mr. Lawrence Falbe. Mr. Falbe will be responsible for the proper service of the subpoena, and he will initiate questioning at the deposition. The parties are hereby directed to determine a mutually agreeable location for the deposition. The parties are also reminded that all discovery in this matter must be completed by February 24, 2012.

SO ORDERED.



Susan L. Bito
Chief Administrative Law Judge

Dated: February 13, 2012
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 hereby certify that true copies of this **Order Issuing Subpoena and a Subpoena Duces Tecum**, issued by Susan Biro, Chief Administrative Law Judge, in Docket No. RCRA-05-2011-0009, were sent to the following parties on this 13th day of February 2012, in the manner indicated:



Mary Angeles
Legal Staff Assistant

Original and One Copy by Email and Regular Mail to:

LaDawn Whitehead
Regional Hearing Clerk
U.S. EPA, Region V, MC-E-19J
77 West Jackson Blvd.,
Chicago, IL 60604-3590 (w/subpoena)

Copy by Email and Regular Mail to:

Catherine Garypie, Esq.
J. Matthew Moore, Esq.
Jeffrey A. Cahn, Esq.
Office of Regional Counsel
U.S. EPA / Region V
77 West Jackson Blvd.
Chicago, IL 60622 (w/o subpoena)

Copy by Email and Regular Mail to:

Lawrence W. Falbe, Esq.
Quarles & Brady, LLP
300 N. LaSalle Street, Suite 4000
Chicago, IL 60654 (w/subpoena)
Email: larry.falbe@quarles.com

Copy by Email and Regular Mail to:

Keven Drummond Eiber, Esq.
Meagan Moore, Esq.
Brouse McDowell, Esq.
600 Superior Avenue East, Ste. 1600
Cleveland, OH 44114 (w/o subpoena)
Email: keiber@brouse.com
Email: mmoore@brouse.com

**Dated: February 13, 2012
Washington, DC**



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of:)	
)	Docket No. RCRA-05-2011-0009
Carbon Injection Systems LLC;)	
Scott Forster, President;)	
Eric Lofquist, Vice President)	Under Section 3008(a) of the Resource
Gate #4 Blast Furnace Main Ave)	Conservation and Recovery Act,
Warren Township, OH 44483)	42 U.S.C. § 6928(a)
)	
EPA ID No. OHR000127910)	
)	
Respondents.)	
)	
)	
)	

SUBPOENA DUCES TECUM

To: Donald DuRivage
c/o Mara B. Levin
Herrick, Feinstein LLP
2 Park Avenue
New York, New York 10016

YOU ARE HEREBY COMMANDED, pursuant to Section 3008(b) of the Resources Conservation and Recovery Act, 42 U.S.C. § 6928(b), and Section 22.19(e) of the Consolidated Rules of Practice, 40 C.F.R. Part 22, TO APPEAR IN PERSON at the following place and times:

DATES AND TIMES: February 22, 2012, at 9:00 am, and continuing as needed

PLACE: To be agreed.

The deposition will be taken pursuant to Rule 30 of the Federal Rules of Civil Procedure, as applicable and may be continued from day to day until completed. The deposition will be recorded by stenographic means and may be recorded by sound and visual means.

YOU ARE FURTHER COMMANDED:

TO APPEAR IN PERSON at the above dates, time and place;

TO TESTIFY then and there under oath, make truthful response to all lawful inquiries and questions put to you by the Parties; and

TO REMAIN IN ATTENDANCE until excused.


YOU ARE FURTHER COMMANDED TO BRING WITH YOU AND PRODUCE at the earliest time and place identified above the following books, papers, letters or other documentary evidence related to the matters listed above:

1. Process diagrams that describe the manufacturing process at IFF's Augusta, GA, plant for Unitene AGR from 2005 to the present.
2. Process diagrams that describe the manufacturing process at IFF's Augusta, GA, plant for Unitene LE from 2005 to the present.
3. Documents sufficient to describe any process changes in the manufacture of Unitene AGR at IFF's Augusta, GA, plant from 2005 to the present.
4. Documents sufficient to describe any process changes in the manufacture of Unitene LE at IFF's Augusta, GA, plant from 2005 to the present.
5. All documents regarding the RCRA closure of any tank at IFF's Augusta, GA, plant used to store Unitene AGR and/or Unitene LE from 2005 to the present.
6. All documents consisting of or reflecting communications, whether written, oral or electronic, between IFF and any state or federal governmental agency, including U.S. EPA, regarding Unitene AGR and/or Unitene LE.
7. All documents that refer or relate to IFF's marketing and sale of Unitene AGR and/or Unitene LE.
8. All documents that refer or relate to IFF's undertaking to obtain trademark protection for its Unitene products.

PURSUANT TO THE AUTHORITY OF SECTION 3008(b) OF THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C. § 6928(b), FAILURE TO COMPLY WITH THIS SUBPOENA MAY RESULT IN INITIATION OF COURT PROCEEDINGS IN A UNITED STATES DISTRICT COURT AGAINST THE RECIPIENT OF THE SUBPOENA

TO COMPEL COMPLIANCE WITH THE SUBPOENA AND ANY FAILURE TO OBEY SUCH ORDER OF THE COURT MAY BE PUNISHED BY SUCH COURT AS CONTEMPT THEREOF.

ISSUED in Washington, DC, this 13th day of February, 2012.



Susan L. Biro
Chief Administrative Law Judge

This subpoena is to be served in accordance with Section 22.05(b)(1)(i) of the Consolidated Rules of Practice, 40 C.F.R. § 22.05(b)(1)(i).

Persons at whose request this Subpoena was issued:

Keven Drummond Eiber
Meagan L. DeJohn
Brouse McDowell, L.P.A.
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Cleveland, Ohio 44114
Telephone: (216) 830-6830
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