

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC**

|                                      |   |                              |
|--------------------------------------|---|------------------------------|
| <b>In re:</b>                        | ) |                              |
|                                      | ) |                              |
| <b>Carbon Injection Systems LLC,</b> | ) |                              |
| <b>Scott Forster,</b>                | ) | <b>RCRA Appeal No. 15-01</b> |
| <b>and Eric Lofquist,</b>            | ) |                              |
|                                      | ) |                              |
| <b>Docket No. RCRA-05-2011-0009</b>  | ) |                              |
| <hr/>                                |   |                              |

**UNOPPOSED MOTION OF APPELLANT FOR  
CHANGE IN ORAL ARGUMENT DATE**

1. On August 20, 2015, the Environmental Appeals Board (the “EAB”) issued an order scheduling oral argument in this matter for Thursday, September 24, 2015.

2. On Friday, September 11, 2015, a representative of the EAB contacted counsel for each of the parties to solicit alternate oral argument dates. The alternate dates were proposed because the visit of a foreign dignitary to Washington, D.C., during the week that argument was scheduled would cause road closures around offices of the United States Environmental Protection Agency (“EPA”). The EAB proposed Monday, September 28, 2015, Wednesday, September 30, 2015, Thursday, October 1, 2015, and Friday, October 2, 2015.

3. On Friday, September 11, 2015, counsel for Appellant informed the EAB’s representative that Appellant was available for oral argument later in the week of September 28, 2015, and preferred to appear before the EAB in person. Appellant requested Thursday, October 1, 2015, but also indicated availability by videoconference on Friday October 2, 2015, or on dates later in October.

4. On Tuesday, September 15, 2015, counsel for Appellees informed the EAB's representative of the availability of Appellee on Monday, September 28, 2015, and Thursday, October 1, 2015.

5. On Wednesday, September 16, 2015, the EAB issued an order rescheduling oral argument for Monday, September 28, 2015.

6. Jeffrey A. Cahn, one of Appellant's counsel and lead counsel for issues related to four of the EAB's five questions (plus clarifying question) in the EAB's July 14, 2015, Order Identifying Issues to be Briefed and in the EAB's August 20, 2015 Oral Scheduling Oral Argument, regarding the Resource Conservation and Recovery Act's regulatory definition of solid waste and the meaning of the phrase "burning for energy recovery," is not available on Monday, September 28, 2015, because of family medical care issues.

7. Counsel for Appellant contacted counsel for Appellees on Wednesday, September 16, 2015, to inquire if Appellee was available to reschedule the oral argument to Wednesday, September 30, 2015. Counsel for Appellees informed counsel for Appellant they were not, because Appellee's client was not available.

8. Immediately thereafter, Mr. Cahn informed the EAB's representative on Wednesday, September 16, 2015, of his unavailability.

9. On Thursday, September 17, the EAB's representative informed counsel for Appellant that the EAB also proposes Tuesday, September 29, 2015, as an oral argument date, and asked that counsel for Appellant contact counsel for Appellees to determine Appellees' availability on that date. Counsel for Appellees informed counsel for Appellant that Appellee is not available on that date.

10. Counsel for Appellant has consulted counsel for Appellee and has confirmed that Appellee remains available for oral argument on Thursday, October 1, 2015. Counsel for Appellee has also informed counsel for Appellant that they also are amenable to considering dates in October and November for oral argument. Appellee does not oppose this Unopposed Motion of Appellant for Change in Oral Argument Date.

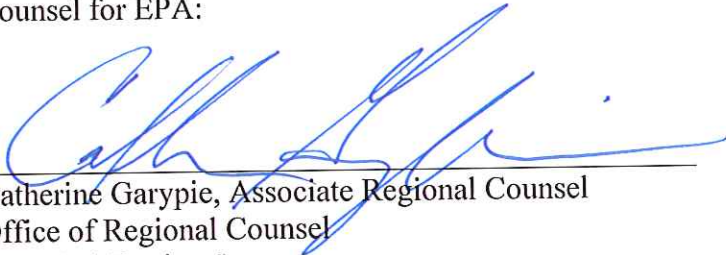
11. The undersigned counsel understands the EAB's interest in having oral argument as soon as possible and regrets the need to file this Unopposed Motion of Appellant for Change in Oral Argument Date. However, circumstances beyond counsel's control has necessitated the need to ask for this rescheduling. Accordingly, Appellant respectfully requests that the oral argument date in this matter be moved to October 1, 2015, which is the first date on which it appears the EAB and the parties are all available.

Wherefore, for good cause shown, Appellant moves the EAB for an order rescheduling the oral argument date in this matter to October 1, 2015.

Respectfully Submitted,

Counsel for EPA:

9/17/15  
Date

  
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**CERTIFICATE OF SERVICE**

**In re: Carbon Injection Systems LLC, Scott Forster, and Eric Lofquist  
RCRA Appeal No. 15-1**

I certify that the foregoing “Unopposed Motion of Appellant for Change in Oral Argument Date”, dated September 17, 2015, was sent this day in the following manner to the addressees listed below:

**An electronic filing was made to:**

Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1201 Constitution Avenue, NW  
WJC East, Room 3332  
Washington, DC

**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  
Suite 350, Franklin Court  
Washington, DC 20005

9/17/15  
Date

  
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Barbara Clark, Paralegal Specialist