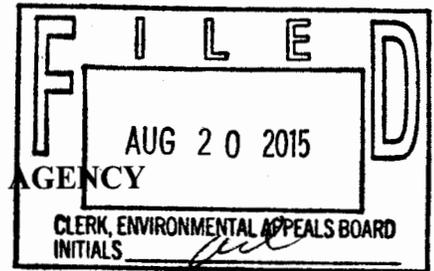


ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

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

Docket No. RCRA-05-2011-0009)

RCRA Appeal No. 15-1

ORDER SCHEDULING ORAL ARGUMENT

The Environmental Appeals Board has determined that oral argument may be of assistance in its *sua sponte* review of the above-captioned enforcement action. See 40 C.F.R. § 22.30(d). The parties are ordered to participate in oral argument beginning at 1:30 p.m. Eastern Daylight Savings Time on Thursday, September 24, 2015, in the Administrative Courtroom, U.S. Environmental Protection Agency, William Jefferson Clinton East Building, Room 1152, 1201 Constitution Avenue, N.W., Washington, D.C. The parties shall notify the Clerk of the Board in writing no later than September 10, 2015, of the names of those persons who will present oral argument. Parties should be prepared to discuss all of the issues identified in the Board's order specifying issues for *sua sponte* review. *In re Carbon Injection Systems, LLC, et al.*, RCRA Appeal No. 15-01 (EAB July 14, 2015) (Order Identifying Issues to be Briefed).

The fourth issue identified by the Board in that order, reads as follows:

4) Did the hydrocarbon materials distributed by Carbon Injection Systems to WCI Steel, Inc., supply substantial, useful heat energy upon combustion in the raceway of WCI Steel's iron blast furnace? Specifically, the Board requests that you address the [Administrative Law Judge's] ("ALJ's") determination that the hydrocarbon materials supplied by Carbon Injection Systems did not contribute substantial, useful energy to the WCI Steel iron blast furnace "because of their net

consumption of energy and consequential cooling effect in the raceway.” Initial Decision at 83.

Id. at 2. After preliminary review of the opening briefs, the Board requests that the parties be prepared to address the fourth issue, as clarified below, at oral argument.

Clarification of Issue 4. The ALJ explained in her Initial Decision that both coke and hydrocarbon injectants are combusted in the raceway to form carbon dioxide. Initial Decision at 29-30. She further stated that the carbon dioxide is dissociated in the raceway to carbon monoxide, which serves as a reducing gas in the blast furnace. *Id.* The ALJ then held that the hydrocarbon injectants, despite their combustion in the raceway, did not supply substantial, useful heat energy to the blast furnace because the injectants were “net” consumers of energy and had a cooling effect on the raceway. *Id.* at 83. The ALJ based this conclusion on evidence that the hydrocarbon materials were injected at a “relatively cool” temperature, and that energy in addition to the energy supplied by their combustion was needed to raise the materials to the temperature in the raceway. *Id.* at 68-71.

To fully understand the heat impact of the hydrocarbon injectants on the blast furnace, the Board requests that you be prepared to address *separately* the heating or cooling impacts from (1) the injection of the hydrocarbon materials into the raceway at relatively low temperatures, and (2) the combustion of the injectants to carbon dioxide in the raceway and the subsequent dissociation of the carbon dioxide to carbon monoxide, in the raceway. On the latter point, the Board is specifically interested in learning what evidence, including what testimony at the hearing, bears on the heating/cooling impact of the combustion/dissociation reaction of hydrocarbon injectants, and whether the combustion/dissociation of coke in the raceway differs in its impact on heating/cooling from the combustion/dissociation of hydrocarbon injectants in the same location.

The Board has allocated ninety (90) minutes total for this oral argument, divided as follows: forty-five (45) minutes for EPA Region 5 and forty-five (45) minutes for Carbon Injection Systems, LLC, Scott Forster, and Eric Lofquist. EPA Region 5 shall argue first. At the outset of proceedings, EPA Region 5 may reserve up to ten (10) minutes of their allocated time for rebuttal.

Counsel or other duly authorized representatives for the participants also may present their arguments by video conferencing. Those who wish to do so shall contact the Clerk of the Board, at (202) 233-0122, no later than September 10, 2015, to make arrangements for the use of the video conference equipment.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: August 20, 2015

By: Leslye M. Fraser
Leslye M. Fraser
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Scheduling Oral Argument** in the matter of Carbon Injection Systems, LLC, Scott Forster, and Eric Lofquist, RCRA Appeal No. 15-01 were sent to the following persons in the manner indicated:

By U.S. First Class Mail:

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Dated: AUG 20 2015



Annette Duncan
Secretary