



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

June 4, 2012

C-14J

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, N.W.,
Mail Code 1900L
Washington, D.C. 20460

RE: In the Matter of Carbon Injection Systems LLC, Scott Forster, and Eric Lofquist
Docket No. RCRA-05-2011-0009

Dear Chief Judge Biro:

Please find enclosed a copy of Complainant's Response to Respondents' Motion Regarding the Cross Examination of Mr. Beedle, filed on June 4, 2012, in the above-captioned matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Matthew Moore".

J. Matthew Moore
Assistant Regional Counsel

Enclosures

cc: Keven D. Eiber (w/ enclosures)
Lawrence M. Falbe (w/ enclosures)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) **Docket No. RCRA-05-2011-0009**
)
Carbon Injection Systems, LLC,)
Scott Forster,)
Eric Lofquist,)
)
Respondents.)
)

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REGIONAL HEADQUARTERS
U.S. EPA REGION 5

**COMPLAINANT'S RESPONSE TO RESPONDENTS' MOTION REGARDING THE
CROSS EXAMINATION OF MR. BEEDLE**

Comes now Complainant, the United States Environmental Protection Agency, Region 5 (Complainant), by and through its counsel, pursuant to Rule 22.16 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules or Rules), 40 C.F.R. § 22.16, and the instructions provided by Staff Attorney Steven Sarno in a May 30, 2012, email to the parties, hereby files Complainant's Response to Respondents' Motion Regarding the Cross Examination of Mr. Beedle.

Complainant does not disagree with the basis for Respondents' request, that two attorneys be allowed to participate in the cross examination of Mr. Beedle, because EPA recognizes and appreciates the complexity of the issues in this matter. However, Respondents' request includes no specificity as to how the cross examination will be divided between the two attorneys, nor does the request place any limitation on this unconventional procedure. Complainant's concern is that an unconditional grant of Respondents' broad request could allow questions from alternating attorneys in quick succession, resulting in a barrage on Mr. Beedle, a


disruption to the proceedings, and an unfair advantage to Respondents. Therefore, Respondents' request should not be granted free of condition.

Accordingly, Complainant respectfully requests that this Court place the following conditions on the cross examination of Mr. Beedle: Attorneys Eiber and Falbe may not cross examine Mr. Beedle more than once. In other words, Respondents cannot alternate attorneys – the first attorney must exhaust his/her questions before handing the remainder of the cross examination to co-counsel. Complainant also requests that it be accorded the same privileges in cross examining Respondents' witnesses.

Respectfully Submitted,

Counsel for EPA:

6/4/12
Date


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CERTIFICATE OF SERVICE

**In the Matter of Carbon Injection Systems LLC, Scott Forster, and Eric Lofquist
Docket No. RCRA-05-2011-0009**

I certify that the foregoing "Complainant's Response to Respondents' Motion Regarding the Cross Examination of Mr. Beedle", dated June 4, 2012, 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 overnight mail to:

Attorneys for Respondents:

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c/o Keven D. Eiber
Brouse McDowell
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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

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

6-4-12
Date


Charles Rodriguez, Student Aide

RECEIVED
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