

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

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<b>In the Matter of:</b>	)	
	)	<b>Docket No. RCRA-05-2011-0009</b>
<b>Carbon Injection Systems LLC;</b>	)	
<b>Scott Forster, President;</b>	)	
<b>Eric Lofquist, Vice President</b>	)	
<b>Gate #4 Blast Furnace Main Ave</b>	)	
<b>Warren Township, OH 44483</b>	)	
	)	
<b>EPA ID No. OHR000127910</b>	)	
	)	
<b>Respondents.</b>	)	

**RESPONDENTS CARBON INJECTION SYSTEMS LLC, SCOTT FORSTER  
AND ERIC LOFQUIST'S MOTION FOR LEAVE TO FILE FIRST  
SUPPLEMENTAL JOINT PREHEARING EXCHANGE**

Respondents Carbon Injection Systems LLC ("CIS"), Scott Forster and Eric Lofquist ("Respondents"), through counsel, respectfully request leave to file their Second Supplemental Joint Prehearing Exchange pursuant to Rules 22.16 and 22.19(f) of the Consolidated Rules, 40 C.F.R. Part 22. Complainant United States Environmental Protection Agency ("Complainant" or "U.S. EPA") does not oppose the correction of RX21. However, EPA does oppose the addition of RX116. As grounds for this motion, Respondents state as follows:

**I. Standard of Review**

Section 22.19(f) of the Consolidated Rules provide that a party must supplement its prior prehearing exchange "when the party learns that the information exchanged or the response provided is incomplete, inaccurate or outdated, and additional or corrective

information has not otherwise been disclosed to the other party pursuant to this section.” 40 C.F.R. 22.19(f); See also *In the Matter of Service Oil, Inc.* Docket No. CWA-08-2005-0010, 2006 EPA ALJ LEXIS 16 (April 12, 2006) and *In the Matter of 99 Cents Only Stores*, Docket No. FIFRA-9-2008-0027, 2009 EPA ALJ LEXIS 9 (June 18, 2009). Motions to supplement a prehearing exchange should be granted unless there is evidence of bad faith, delay tactic, or undue prejudice. *In the Matter of Service Oil, Inc.* Docket No. CWA-08-2005-0010, 2006 EPA ALJ LEXIS 16 \*4, (April 12, 2006).

## **II. Supplemental Information**

Respondents’ Second Supplemental Joint Prehearing Exchange will correct and supplement RX-21, which are the monthly invoices from CIS to the steel mill which reflect the total amount of oil injectants transferred and sold to the steel mill on a monthly basis for the period of time that is the subject of the Complaint. In connection with their final hearing preparation, Respondents’ counsel determined that one page, CIS-00434 was a duplicate of a previous page, CIS-00430 and that the correct page was missing. Respondents’ counsel also determined that RX-21 was missing the invoices, and thus the volumetric information, for 2005, which should have been included. This information is relevant to the penalty calculations, particularly the economic benefit component of the penalty calculations.

## **III. Discussion**

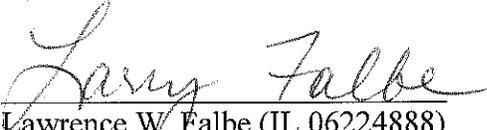
The information provided in Respondents’ Second Supplemental Joint Prehearing Exchange is relevant and of probative value to the matter before this Tribunal and will provide more complete and updated information, as required by 40 C.F.R. 22.19(f). Although this motion is being submitted just after fifteen days prior to the start of the

hearing and the deadline for motions to supplement prehearing exchanges as provided in the Order on Agreed Motion for Modifying the Pre-Hearing Schedule (April 10, 2012), the information being supplemented is not extensive and Complainant should have ample time to review the information provided in the should Supplemental Joint Prehearing Exchange. The motion to supplement is not in bad faith, nor will U .S. EPA suffer any prejudice from the correction and addition of the information regarding the volume of oil sold to the steel mill. This supplemental information is not voluminous and is necessary to accurately complete Respondents' prehearing exchange.

**IV. Conclusion**

For the above stated reasons, Respondents respectfully request their Motion for Leave to File Respondents' Second Supplemental Joint Prehearing Exchange be granted.

Respectfully submitted,



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Lofquist*

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

**CERTIFICATE OF SERVICE**

I, Lawrence W. Falbe, an attorney, hereby certify that the foregoing Motion for Leave to File Second Supplemental Prehearing Exchange was sent on June 5, 2012, in the manner indicated, to the following:

Original and One Copy by hand delivery to:

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U.S. Environmental Protection Agency  
1099 14th Street, N.W., Suite 350  
Washington, DC 20005

Steven Sarno (sarno.steven@epamail.epa.gov)  
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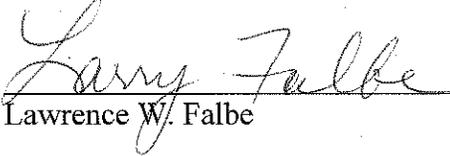
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June 5, 2012

  
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