



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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

ORDER ON AGREED MOTION FOR MODIFYING THE PRE-HEARING SCHEDULE

On April 6, 2012, the parties filed an Agreed Motion for Modifying the Pre-Hearing Schedule (“Motion” or “Mot.”) in which the parties request the postponement of certain previously established prehearing deadlines. Specifically, the Motion requests an additional week, until April 23, 2012, to submit motions for leave to file supplemental pre-hearing exchange information, noting that this change would allow for consideration of the Reply Briefs to the two Motions for Accelerated Decision, presently due April 13, 2012. Mot. at 1. Second, the parties request that the deadline for filing motions *in limine* be extended to May 18, 2012, to allow time for rulings on the cross Motions for Accelerated Decision. *Id.* at 2. Lastly, the parties request that the deadlines for subpoenas and prehearing briefs be postponed until June 1, 2012, in order to benefit from rulings on the Motions for Accelerated Decision and any motions *in limine*. *Id.* The parties do not request an extension of time to file Reply Briefs for the Motions for Accelerated Decision or the joint stipulations.

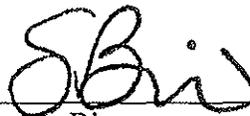
Postponing the deadline for the prehearing briefs, until June 1, 2012, will have no negative impact on these proceedings as such filings are voluntary, stand-alone documents, the filing of which does not trigger a response and reply period. In addition, moving the deadline closer to the start of the hearing may, as the parties assert, allow the issues for hearing to further crystalize, thereby increasing the utility of the prehearing briefs. Therefore, the Motion is **GRANTED IN PART**. Should a party choose to file a prehearing brief, it must be received on or before **June 1, 2012**. Similarly, a delay of one week in the deadline for filing motions to supplement the prehearing exchange carries no risk of prejudice or delay. Provided any such motions are filed by April 23, 2012, there will be sufficient time to fully brief contested motions and for the undersigned to issue a ruling prior to final preparations for the hearing. Therefore, the Motion is **GRANTED IN PART**. Any motions to supplement the prehearing exchange must be filed on or before **April 23, 2012**.

By contrast, requests for subpoenas must be filed sufficiently in advance of a hearing in order to accommodate full (if accelerated) briefing on contested motions as well as sufficient time for the calling party to receive the originals and properly serve them on the individual named in the subpoena. In the Motion, the parties allow only 17 days between the proposed deadline for subpoenas and the scheduled start of hearing. While some delay may be reasonable, in order to benefit from further hearing preparation and the results of any motions *in limine*, the deadline must be sooner. Accordingly, the Motion is **GRANTED IN PART**. Any motions for the issuance of a subpoena must be filed and received no later than **May 25, 2012**. Any party filing such a request must state in the motion whether the opposing party objects to the motion. If a party objects to the request for any subpoena, the objecting party must file and ensure receipt of its response no later than **June 1, 2012**. If a reply brief is deemed necessary, that party will be contacted by this Tribunal with a specific deadline. *See* 40 C.F.R. § 22.16(b).

Similarly, the deadline for motions *in limine* must allow for sufficient time to brief a contested motion, but logically should precede requests for subpoenas. Therefore, any motions *in limine* must be filed and received no later than **May 4, 2012**. Any party filing such a motion must state therein whether the opposing party objects to the motion. If a party objects to a motion *in limine*, the objecting party must file and ensure receipt of its response no later than **May 11, 2012**. If a reply brief is deemed necessary, that party will be contacted by this Tribunal with a specific deadline. *See* 40 C.F.R. § 22.16(b).

Lastly, in preparation for the hearing, the parties are directed to participate in a prehearing conference call on Tuesday, **May 22, 2012, at 11:00 AM (EDT)**. Should any party be unable to participate in the conference call as scheduled, it shall notify this Tribunal as soon as possible.

SO ORDERED.



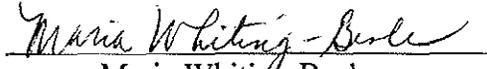
Susan L. Biro
Chief Administrative Law Judge

Dated: April 10, 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 certify that the foregoing **Order On Agreed Motion For Modifying The Pre-Hearing Schedule**, dated April 10, 2012, was sent this day in the following manner to the addressees listed below.



Maria Whiting-Beale
Staff Assistant

Dated: April 10, 2012

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