

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

JUN 29 2011

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
WATER QUALITY STANDARDS AND )  
EFFLUENT LIMITATIONS FOR THE )  
CHICAGO AREA WATERWAY SYSTEM )  
AND THE LOWER DES PLAINES RIVER: )  
PROPOSED AMENDMENTS TO 35 ILL. )  
Adm. Code Parts 301, 302, 303 and 304 )

R08-09  
(Rulemaking – Water)  
Sub-Docket C-D

NOTICE OF FILING

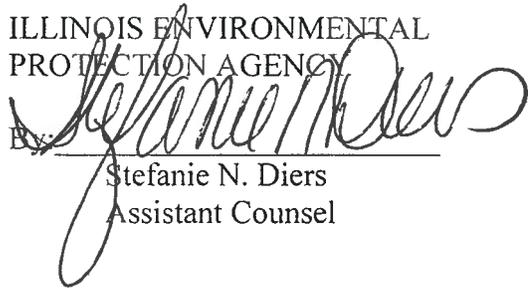
To: John Therriault, Clerk  
Marie Tipsord, Hearing Officer  
James R. Thompson Center  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

ORIGINAL

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board ILLINOIS EPA'S RESPONSE TO MIDWEST GENERATION'S MOTION FOR TEMPORARY SUSPENSION OF SUBDOCKET D HEARINGS a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

  
Stefanie N. Diers  
Assistant Counsel

Dated: June 28 2011  
1021 North Grand Avenue East  
P.O. Box 19276  
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(217) 782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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OF THE STATE OF ILLINOIS

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R08-9  
Rulemaking-Water  
Subdocket C-D

**ILLINOIS EPA'S RESPONSE TO MIDWEST GENERATION'S MOTION FOR  
TEMPORARY SUSPENSION OF SUBDOCKET D HEARINGS**

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its response to Midwest Generation's Motion for Temporary Suspension of Subdocket D hearings. Illinois EPA states as follows:

1. On June 14, 2011, Midwest Generation filed its Motion for a Temporary Suspension of Subdocket D with the Illinois Pollution Control Board ("Board").
2. Midwest Generation is asking the Board to temporarily suspend hearings in Subdocket D until the Board proceeds to First Notice in Subdocket C. (Motion P. 2).
3. The Illinois EPA does not object to Midwest Generation's request to wait until a First Notice Opinion and Order is issued in Subdocket C before proceeding with hearings in Subdocket D. It is reasonable for the parties to want to see what aquatic life uses are being proposed by the Board before presenting a case in Subdocket D with respect to water quality standards to protect those aquatic life uses.
4. Midwest Generation further submits that the recent Subdocket A events concerning the filing of both USEPA's May 11, 20011 Determination Letter (See Public Comment #584) and the Illinois EPA May 16<sup>th</sup>, 2011 Motion to Stay have resulted in significant changes to the proposed recreational uses in the Board's Proposed Second

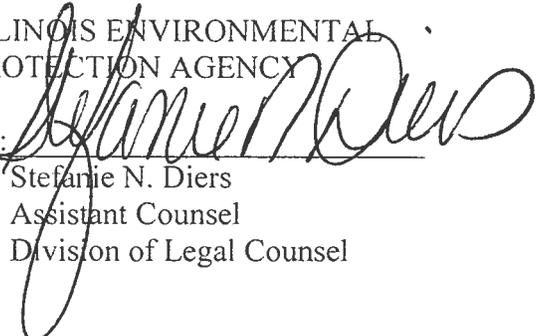
Notice in Subdocket A and there is a threat this could happen again in regard to Subdocket D based on a January 29, 2010 letter by the USEPA. (See Public Comment #286). Therefore, to prevent a similar outcome in Subdockets C and D, Midwest Generation asks that Illinois EPA be required to file a response to the January 2010 USEPA letter before hearings in Subdocket D are scheduled. (Motion P. 8).

5. Having Illinois EPA file a response to the January 2010 letter before scheduling hearings in Subdocket D would not be beneficial to the Board and the participants at this time and would cause unnecessary delay. Illinois EPA is continuing to work on these issues internally and with USEPA to discuss the issues raised in the January 2010 letter. Illinois EPA is willing to provide the Board and participants a status report with respect to how these issues are progressing internally and with USEPA. Furthermore, Illinois EPA strongly opposes holding off hearings in Subdocket D while working on these issues because there would be a benefit in seeing the information that will be presented from the various parties during the hearing process. The information presented during the hearings could potentially help Illinois EPA resolve issues raised by USEPA in the January 2010 letter.

WHEREFORE, the Illinois EPA respectfully agrees with Midwest Generation that Subdocket D hearings should not move forward until a First Notice Opinion and Order is issued Subdocket C. Illinois EPA further requests that Midwest Generation's request that Illinois EPA file a response to the USEPA January 2010 letter be denied.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Stefanie N. Diers  
Assistant Counsel  
Division of Legal Counsel

DATED: June 28, 2011

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF SANGAMON )  
 )

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached ILLINOIS EPA'S RESPONSE TO MIDWEST GENERATION'S MOTION FOR TEMPORARY SUSPENSION OF SUBDOCKET D HEARINGS upon the person to whom it is directed by placing it an **overnight** envelope addressed to:

John Therriault, Clerk  
Marie Tipsord, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

and mailing it First Class Mail from Springfield, Illinois on June \_\_, 2011, with sufficient postage affixed to the addresses on the attached Service List.

*Meredith Kelley*

SUBSCRIBED AND SWORN TO BEFORE ME

This 28<sup>th</sup> day of June, 2011

Brenda Boehner  
Notary Public



**THIS FILING IS SUBMITTED ON RECYCLED PAPER**