

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
WATER QUALITY STANDARDS AND)
EFFLUENT LIMITATIONS FOR THE) R08-9 Subdocket C
CHICAGO AREA WATERWAY SYSTEM) (Rulemaking – Water)
AND THE LOWER DES PLAINES RIVER:)
PROPOSED AMENDMENTS TO 35 Ill.)
Adm. Code Parts 301, 302, 303 and 304)

NOTICE OF FILING

TO: John Therriault, Assistant Clerk Attached Service List
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

PLEASE TAKE NOTICE that I have today filed with the Illinois Pollution Control Board Midwest Generation's Questions for Citgo's Witness Robin L. Garibay, REM, copy of which is herewith served upon you.

Dated: October 22, 2010

MIDWEST GENERATION, L.L.C.

By: /s/ Susan M. Franzetti
One of Its Attorneys

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ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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WATER QUALITY STANDARDS AND) **R08-9 Subdocket C**
EFFLUENT LIMITATIONS FOR THE) **(Rulemaking-Water)**
CHICAGO AREA WATERWAY SYSTEM)
AND LOWER DES PLAINES RIVER)
PROPOSED AMENDMENTS TO 35 ILL.)
ADM. CODE 301, 302, 303, AND 304)

**MIDWEST GENERATION'S QUESTIONS FOR
CITGO'S WITNESS ROBIN L. GARIBAY, REM**

Midwest Generation, L.L.C. ("Midwest Generation" or "MWGen"), by and through its attorneys, Nijman Franzetti LLP, submits the following questions based upon the Pre-filed Testimony of Robin L. Garibay, REM, submitted on behalf of Citgo Petroleum Corporation and PDV Midwest, LLC. Midwest Generation requests that the Hearing Officer allow follow-up questioning to be posed based on the answers provided.

QUESTIONS

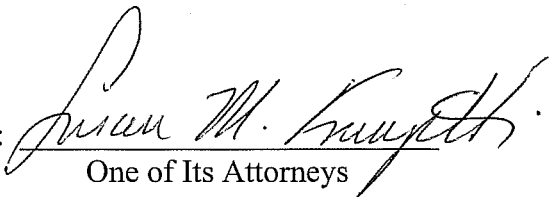
1. Please identify the full name, and if applicable, the exhibit numbers in this record, of the 2007 and 2010 reports you are referencing on page 5 of your testimony.
2. Please explain what your basis was or the factors you used to define the stretch of the CSSC that you refer to as the "Lower Reach"?
3. In conducting the work to prepare your testimony, did you primarily limit your review to only information concerning the lower reach of the CSSC?
4. Do you have any understanding regarding whether the attributes of the lower reach of CSSC that you list on page 5 of your testimony, such as off-channel refuge, vertical wall banks, rip-rap armored banks, macrophyte cover, overhanging vegetation, bank pocket, etc., also apply to the upper reach of the CSSC?
5. With regard to the 2007 and 2010 Reports referenced on page 6 of your testimony, do you know whether the IBI and MBI scores for all of the reaches within the CSSC are similar? Do you know whether this is also true for the Fish Species Richness and Fish Abundance values?

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6. With regard to the discussion of sediment quality on page 7 of your testimony, do your observations on sediment quality apply to the entire reach of the CSSC or just to the lower reach?
7. On page 7 of your testimony, you state that “the predominant factor impacting aquatic life and the ability of the lower reach of the Ship Canal in supporting aquatic life are related to the physical characteristics inherent to the Canal.” Do you know whether this is also the predominant factor impacting the rest of the CSSC?
8. On page 7 of your testimony, you discuss the mandatory water management controls in the Ship Canal that are necessary for navigation and flood control. Are these observations applicable to the entire CSSC?
9. With regard to your discussion of the lack of quality to the aquatic life, at page 7 of your testimony, do you agree that the aquatic life characterization as “poor to very poor” applies throughout the CSSC?
10. On page 7 of your testimony, are you saying that the “design and operation” of the CSSC in the lower reach is different from the design and operation in the upper reach? If your answer is yes, please explain the difference(s).
11. In your opinion, are there relevant differences between the lower CSSC and the upper CSSC? If yes, please identify and explain any relevant difference(s).
12. At the bottom of page 14 of your testimony, you refer to “human-caused conditions (use of electric barrier and piscicides).” Is it your opinion that the electric barriers and the use of piscicides in the CSSC satisfy the requirements of UAA Factor No. 3 that also refers to “human-caused conditions”?
13. In your opinion, are the electric barriers in the CSSC an existing physical condition in this waterway?
14. Is it correct to state that in the area of the CSSC where the electric barriers are located, the purpose of those barriers is to deter the passage of all fish through the area in order to prevent the migration of Asian carp?
15. On page 15 of your testimony, you state: “However, another remedy – to allow an upgrade to aquatic life use designation from current designation to Aquatic Life Use B – would result in improvements of habitat and water quality conditions that are also related to human-caused conditions.” Please explain further what you mean by this testimony.
16. Are you recommending a use designation for the Lower Reach of the CSSC that identifies invasive species control as its primary use? If so, please explain why.

Respectfully submitted,

MIDWEST GENERATION, L.L.C.

By: 
One of Its Attorneys

Dated: October 22, 2010

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing and Midwest Generation's Questions for Citgo's Witness Robin L. Garibay, REM were filed electronically on October 22, 2010 with the following:

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Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

and that true copies were mailed by First Class Mail, postage prepaid, on October 22, 2010 to the parties listed on the foregoing Service List.

/s/ Susan M. Franzetti