ILLINOIS POLLUTION CONTROL BOARD September 22, 2016

SIERRA CLUB, NATURAL RESOURCES)	
DEFENSE COUNCIL, PRAIRIE RIVERS)	
NETWORK, and ENVIRONMENTAL LAW)	
& POLICY CENTER,)	
)	PCB 15-189
Petitioners,)	(Third-Party NPDES Permit Appeal-
)	Water)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY and MIDWEST)	
GENERATION, LLC.,)	
)	
Respondents.)	

HEARING OFFICER ORDER

On September 22, 2016, all parties participated in a telephonic status call with the hearing officer. Discussions centered on the witnesses to appear at the October 5, 2016, hearing. Counsel for the respondent Illinois Environmental Protection Agency (Agency) took issue that the petitioners' witnesses were not disclosed in writing on or before September 7, 2016, pursuant to my August 31, 2016, order. My order did not require that disclosure of witnesses must be in writing.

At the September 7, 2016, telephonic status conference, the petitioners orally disclosed that their two witnesses will be the Agency's disclosed witnesses. Because the petitioners have the burden of proof, I assumed that the petitioners would be calling them in their case-in-chief as adverse witnesses. The counsel for the Agency apparently assumed that the petitioners would rest in their case in chief without calling any witnesses then cross-examine them in the respondents' case-in-chief.

The Agency objected on the grounds of non-disclosure. I found that the petitioners properly and timely disclosed their two witnesses, Jamie Rabins and Darin LeCrone, and directed petitioners to serve subpoenas pursuant to Section 101.622 (b) of the Board's procedural rules.

IT IS SO ORDERED.

Bradley P. Halloran Hearing Officer Illinois Pollution Control Board James R. Thompson Center, Suite 11-500 100 W. Randolph Street Chicago, Illinois 60601 312.814.8917

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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e- mailed on September 22, 2016, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on September 22, 2016:

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