

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of: )  
 )  
 SIERRA CLUB, ENVIRONMENTAL )  
 LAW AND POLICY CENTER, )  
 PRAIRIE RIVERS NETWORK, and )  
 CITIZENS AGAINST RUINING THE )  
 ENVIRONMENT )  
 )  
 Complainants, )  
 )  
 v. )  
 )  
 MIDWEST GENERATION, LLC, )  
 )  
 Respondents )

PCB No-2013-015  
 (Enforcement – Water)

**NOTICE OF FILING**

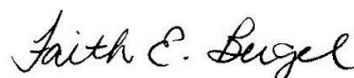
**To:** John Therriault, Clerk  
 Illinois Pollution Control Board  
 James R. Thompson Center  
 100 West Randolph Street, Suite 11-500  
 Chicago, IL 60601

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

Persons included on the attached  
 SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board the attached **AGREED MOTION TO EXTEND THE DISCOVERY SCHEDULE AND MODIFY THE DISCOVERY ORDER** and **PROPOSED HEARING OFFICER ORDER**, copies of which are served on you along with this notice.

Respectfully submitted,



Faith E. Bugel  
 Environmental Law & Policy Center  
 35 E. Wacker Dr., Suite 1600  
 Chicago, IL 60601  
 fbugel@elpc.org  
 (312) 795-3708 (phone)  
 (312) 795-3730 (fax)

Dated: February 4, 2014

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the Matter of:	)	
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SIERRA CLUB, ENVIRONMENTAL	)	
LAW AND POLICY CENTER,	)	
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CITIZENS AGAINST RUINING THE	)	
ENVIRONMENT,	)	
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Complainants,	)	
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v.	)	PCB No-2013-015
	)	(Enforcement – Water)
MIDWEST GENERATION, LLC,	)	
	)	
Respondent.	)	

**AGREED MOTION TO EXTEND THE DISCOVERY SCHEDULE AND MODIFY THE DISCOVERY ORDER**

NOW COME the Complainants, Sierra Club, Environmental Law and Policy Center (ELPC), Prairie Rivers Network, and Citizens Against Ruining the Environment (collectively, “Citizens Groups”), by and through counsel, and move the Illinois Pollution Control Board for leave to extend the discovery schedule and modify the discovery order, and in support of their motion state as follows:

1. On June 9, 2014, the Hearing Officer for PCB No-2013-015 entered an order establishing the remaining discovery schedule for both Complainants and Respondent. Fact discovery for PCB No-2013-015 was scheduled to end on January 30, 2015.
2. On January 14, 2015, Citizens Groups filed their Second Motion for Leave to file Amended Complaint. On January 27, 2015, Midwest Generation, LLC (“MWG”) filed a Response to Citizens Groups’ Second Motion for Leave to File Amended Complaint. On January 30, 2015, Complainants filed a Motion for Leave to Reply to MWG’s Response to Complainants’ Section Motion for Leave to File Amended Complaint. In these filings, both

Complainants and Respondent requested different extensions (with different limitations) to the discovery schedule.

3. On February 2, 2015, counsel for Citizens Groups and counsel for MWG conferred. Beginning with that discussion and subsequent emails, Counsel agreed to the following:

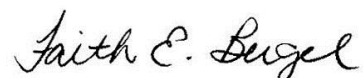
- a. A 60-day extension of fact discovery limited to the deposition of Fredrick Veenbaas and written discovery. The subject matter of the extended discovery schedule will encompass all claims and is not limited to the new claims addressed in the proposed Amended Complaint. This subject matter will extend to any matter relevant to the subject matter involved in the pending action;
- b. Rescheduling Mr. Veenbaas's deposition to a mutually-agreeable date and location on or before February 20, 2015. Aside from Mr. Veenbaas, Complainants agree to forego any further depositions;
- c. Authorizing both the Citizens Groups and Respondent to propound 10 additional Interrogatories beyond the limits set by Ill. Sup. Ct. Rule 213(c). These will not be limited in scope to the new claims addressed in the Amended Complaint and will extend to any matter relevant to the subject matter involved in the pending action;
- d. Authorizing both the Citizens Groups and Respondent to propound 20 additional Requests for Admission beyond the limits set by Ill. Sup. Ct. Rule 216(f). These will not be limited in scope to the new claims addressed in the Amended Complaint and will extend to any matter relevant to the subject matter involved in the pending action;

- e. MWG will review redacted material from documents that Citizens Groups have specified or may specify to assess whether the redactions should be revised based on the Amended Complaint, at such time as the Board accepts the Amended Complaint for filing;
- f. All written discovery shall be served by March 2 in order to allow adequate time to respond.

WHEREFORE, Complainants respectfully request that the Board accept the expanded scope of written discovery and the following agreed proposed revised schedule:

- a. Fact discovery shall close on March 31, 2015;
- b. Complainants' written expert witness report shall be served on or before May 1, 2015;
- c. Respondent's written expert witness report shall be served on or before June 1, 2015;
- d. Complainants' written expert witness reply shall be served on or before June 22, 2015;
- e. Depositions of expert witnesses shall begin no earlier than July 22, 2015 and be completed on or before September 22, 2015;
- f. Dispositive motions shall be filed on or before November 23, 2015.

Respectfully submitted,



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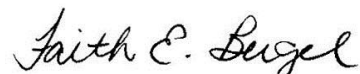
*Attorneys for Sierra Club*

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*Attorney for CARE*

**CERTIFICATE OF SERVICE**

I, Faith E. Bugel, hereby certify that a true copy of the foregoing **AGREED MOTION TO EXTEND THE DISCOVERY SCHEDULE AND MODIFY THE DISCOVERY ORDER** and **PROPOSED HEARING OFFICER ORDER** were served via United States Mail, postage prepaid, in Chicago, Illinois on February 4, 2014 upon the service list below.



Faith E. Bugel  
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Dated: February 4, 2014

Jennifer T. Nijman  
Nijman Franzetti LLP  
10 South LaSalle Street, Suite 3600  
Chicago IL, 60603

CT Corporate Systems  
Midwest Generation, LLC  
208 South LaSalle Street, Suite 814  
Chicago, IL 60604

Bradley P. Halloran, Hearing Office  
Illinois Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, IL 60601

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	)	(Enforcement – Water)
MIDWEST GENERATION, LLC,	)	
	)	
Respondents	)	

**PROPOSED HEARING OFFICER ORDER**

On February 4, 2015, the parties submitted an Agreed Motion to Extend the Discovery Schedule and Discovery Order. After reviewing the proposed amended discovery schedule and proposed amended scope of discovery, discovery shall be amended as follows:

**Order 1:** There shall be a 60-day extension of discovery limited to the deposition of Mr. Veenbaas and written discovery. The subject matter of the extended discovery schedule will encompass all claims and is not limited to the new claims addressed in the proposed Amended Complaint. This subject matter will extend to any matter relevant to the subject matter involved in the pending action. The remaining discovery schedule, also attached, is as follows:

Fact discovery shall close on March 31, 2015;

Complainants' written expert witness report shall be served on or before May 1, 2015;

Respondent's written expert witness report shall be served on or before June 1, 2015;

Complainants' written expert witness reply shall be served on or before June 22, 2015;

Depositions of expert witnesses shall begin no earlier than July 22, 2015 and be completed on or before September 22, 2015;

Dispositive motions shall be filed on or before November 23, 2015.

**Order 2:** The parties shall reschedule the deposition of Frederick Veenbaas to a mutually-agreeable date and location on or before February 20, 2015. Aside from Mr. Veenbaas, Complainants agree to forego any further depositions.

**Order 3:** Citizens Groups and Respondent are each authorized to propound 10 additional Interrogatories beyond the limit of 30 Interrogatories set by Ill. Sup. Ct. Rule 213(c). These interrogatories will not be limited in scope to the new claims addressed in the Amended Complaint and will extend to any matter relevant to the subject matter involved in the pending action.

**Order 4:** Citizens Groups and Respondent are each authorized to propound 20 additional Requests for Admission beyond the limit of 30 Requests for Admission set by Ill. Sup. Ct. Rule 216(f). These will not be limited in scope to the new claims addressed in the Amended Complaint and will extend to any matter relevant to the subject matter involved in the pending action.

**Order 5:** Midwest Generation will review redacted material from documents that Citizens Groups have specified or may specify to assess whether the redactions should be revised based on the Amended Complaint, at such time as the Board accepts the Amended Complaint for filing;

**Order 6:** All written discovery shall be served by March 2, 2015 in order to allow adequate time to respond.