

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)	
)	PCB 2013-015
Complainants,)	(Enforcement – Water)
)	
v.)	
)	
MIDWEST GENERATION, LLC,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Don Brown, Clerk	Attached Service List
Illinois Pollution Control Board	
60 E. Van Buren St., Ste. 630	
Chicago, Illinois 60605	

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board, List of Exhibits Midwest Generation LLC Anticipates Presenting at the Second Phase of Hearing, a copy of which is hereby served upon you.

MIDWEST GENERATION, LLC

By: /s/ Jennifer T. Nijman

Dated: May 3, 2023

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Notice of Filing, Certificate of Service for List of Exhibits Midwest Generation LLC Anticipates Presenting at the Second Phase of Hearing, a copy of which is hereby served upon you and filed on May 3, 2023 with the following:

Don Brown, Clerk
Illinois Pollution Control Board
James R. Thompson Center
60 E. Van Buren St., Ste. 630
Chicago, Illinois 60605

and that true copies of the pleading were emailed on May 3, 2023 to the parties listed on the foregoing Service List.

/s/ Jennifer T. Nijman

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Respondent.)	

LIST OF EXHIBITS MIDWEST GENERATION LLC ANTICIPATES PRESENTING AT THE SECOND PHASE OF HEARING

Pursuant to the Hearing Officer’s May 2, 2023 Order, Respondent, Midwest Generation, LLP (“MWG”), submits its list of exhibits it anticipates presenting at the second phase of hearing, including the known objections by Complainants as provided to date. The parties exchanged their objections to the exhibits as of this date, however, MWG may have more or less objections to Complainants’ exhibits (e.g., foundation, admissibility, relevance) at the hearing that cannot be identified in advance, which depend upon how the document is presented and used at the hearing.

This list also incorporates MWG’s exhibits it identified in the List of Agreed Exhibits filed with its Pre-Hearing Memorandum on April 21, 2023. MWG reserves the right to use any of the Complainant’s Agreed Exhibits.¹

	Document Number	Brief Description	Date	Complainants’ Stated Objection	Agreed Exhibit?	MWG witness
1.	MWG13-15_24960-25127	KPRG 2005 Coal Ash and Slag Removal – Joliet 29 Station	Dec. 6, 2005		Yes	Gnat
2.	MWG13-15_48711 – 48843	Powerton First Quarter 2015 Quarterly Report	April 24, 2015		Yes	Gnat
3.	MWG13-15_79315	Joliet 29 NE area KPRG Inspection, 2018	Nov. 5, 2018		Yes	Gnat
4.	MWG13-15_79316	Joliet 29 NE area KPRG Inspection, 2019	Nov. 4, 2019		Yes	Gnat
5.	MWG13-15_79317	Joliet 29 NE area KPRG Inspection, 2020	Nov. 6, 2020		Yes	Gnat
6.	MWG 13-15_79341-79356	Joliet 29 Boring Logs,	Nov. 12, 2020		Yes	Gnat
7.	MWG 13-15_79357-79442	Joliet 29 Soil Samples and Map of boring locations	April 8, 2020		Yes	Gnat
8.	MWG13-15_81195-81293	Eurofins Analytical Report, Waukegan Generating Station, Laboratory Job ID: 180-116605-1	March 12, 2021		Yes	Gnat
9.	MWG13-15_81413-82193	Expert Report on Relief and Remedy, <i>Sierra Club et al. v. Midwest Generation, LLC,</i>	April 22, 2021			Weaver

¹ As stated on MWG’s Agreed List, the parties stipulated that there is no objection to a party’s request for the admission of the Agreed exhibits to the extent discussed at the hearing with the respective witness identified on the Agreed List.

	Document Number	Brief Description	Date	Complainants' Stated Objection	Agreed Exhibit?	MWG witness
		Weaver Consultants Group. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report.				
10	MWG13-15_ 82194-82251	Expert Report <i>In the Matter of Sierra Club, Environmental Law and Policy Center, et al v. Midwest Generation, LLC</i> , PCB13-15, Prepared by Gayle Schlea Koch, Axlor Consulting LLC. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report.	April 22, 2021			Koch
11	MWG13-15_ 82252-82261	Economic Impacts of Midwest Generation Stations in Illinois, Prepared by Brian Richard, Ph.D. MWG reserves the right to discuss all documents, information, and references cited and relied upon in the report.	April 22, 2021			Richard
12	MWG13_15 - 83856-83861	MWG Employee Information	April 13, 2021	Relevance		Shealey
13	MWG13-15_ 107800 - 108202	Ex. 369 and 378 of Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and Lower Des Plaines River, PCB R08-09, Sediment Chemistry Study, Upper Illinois Waterway, Dresden and Lower Brandon Pools, Prepared by EA Engineering, Science, and Technology, Sept. 2008, Fig. 2, (Sept. 8, 2008).	Sept. 8, 2008	Foundation and Relevance		Weaver
14	MWG13-15_ 108284 - 108393	KPRG 2021 Photos of J29 NE Area	2021 (not dated)		Yes	Gnat
15	MWG13-15_ 108394	J29 NE area KPRG Inspection, 2021	Nov. 1, 2021		Yes	Gnat
16	MWG13-15_ 112253-112324	CEC Invoices for CCR Work	2017- 2021 (various dates)	Relevance		Shealey
17	MWG13-15_ 112325-112468	KRPG Invoices for CCR Work	2021 (various dates)	Relevance		Shealey
18	MWG13-15_ 112469-112735	Sargent & Lundy Invoices for CCR Work	2019 -2021 (various dates)	Relevance		Shealey

	Document Number	Brief Description	Date	Complainants' Stated Objection	Agreed Exhibit?	MWG witness
19	MWG13-15_112736 – 113393	Waukegan ELUC Wells GW data	2017-2020 (various dates)		Yes	Gnat
20	MWG13-15_113394-113952	Waukegan MW-8 and MW-9 results	2017-2020 (various dates)		Yes	Gnat
21	MWG13-15_122672-123235	MWG's Response in Support of its Joliet 29 Petition for Adjusted Standard, PCB AS21-01,	March 24, 2022		Yes	Shealey
22	MWG13-15_124120-124129	Illinois EPA Bureau of Water Presentation. "Waukegan Power Station: Part 845 – CCR Surface Impoundments" by Darin LeCrone*	No Date			Shealey
23	MWG13-15_124376-124383	IPCB Order on MWG's Petition for Adjusted Standard for Powerton, PCB AS21-2	Feb. 17, 2022		Yes	Shealey
24	MWG13-15_124452	Joliet 29 NE area KPRG Inspection, 2022	Nov. 3, 2022		Yes	Gnat
25	MWG13-15_124453-124455	Joliet 29 Boring Logs	April 2, 2020		Yes	Gnat
26	MWG13-15_124456-124479	Joliet 29 Soil Sample Results	April 8, 2020		Yes	Gnat
27	MWG13-15_124480-124540	Joliet 29 Soil Sample Results	Nov. 27, 2020		Yes	Gnat
28	MWG13-15_124541-124546	Illinois River Levels at Kingston Mines and Peoria Lock and Dam		Foundation and relevance		Gnat
29	N/A	Lyderon, Kari, "Historic coal ash raises concerns at iconic Illinois coal plant site",	Dec. 21, 2021	Hearsay and foundation		Shealey
30	Comp. 41681-41715	Email from J. Kunkel to F. Bugel and A. Russ attaching Meeting Minutes of meeting between J. Kunkel and F. Bugel*	Aug. 20, 2014	Foundation, relevance, and prejudice		Weaver
31	Comp. 41735-41744	Email from J. Kunkel to A. Russ regarding letter report*	July 22, 2014	Foundation, relevance, and prejudice		Weaver
32	Comp. 69568-69642	Quarles's Notes on Weaver April 22, 2021 Report	Not Dated			Quarles
33	Comp. 67474 – 67499	Quarles' General and Rebuttal Notes	Various Dates (2019-2021)	Form		Quarles
34	Comp. 70262-70299	Quarles' Notes with Counsel	Various Dates (Nov. 4, 2019-Sep. 24, 2021)	Form		Quarles
35	Comp. 70300-70314	Quarles' Notes with Counsel	Various Dates (May 26, 2021 - July 9, 2021)	Form		Quarles

As previously noted, MWG reserves the right to supplement its exhibits with those listed by Complainants or to be used for cross-examination or rebuttal, or demonstrative evidence used to present testimony. As a courtesy MWG has also noted with an asterisk (*) certain exhibits that may be discussed but are not currently expected to be submitted for admission. MWG reserves the right to move to admit the documents during the Hearing. MWG also reserves the right to discuss the exhibits that have been admitted as part of the first hearing and listed in the Hearing Officer's April 25, 2018 Order. However, for the exhibits that were previously admitted over MWG's objections, MWG continues to object to their admission and does not waive its objections if those exhibits are used during the second hearing.

Respectfully submitted,

MIDWEST GENERATION, LLC.

By /s/ Jennifer T. Nijman
One of its Attorneys

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