

No. 15-60821

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

SOUTHWESTERN ELECTRIC POWER COMPANY; UTILITY WATER ACT GROUP; UNION ELECTRIC COMPANY, doing business as Ameren Missouri; WATERKEEPER ALLIANCE, INCORPORATED; ENVIRONMENTAL INTEGRITY PROJECT; SIERRA CLUB; AMERICAN WATER WORKS ASSOCIATION; NATIONAL ASSOCIATION OF WATER COMPANIES; CITY OF SPRINGFIELD, MISSOURI, by and through the Board of Public Utilities; DUKE ENERGY INDIANA, INCORPORATED,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; GINA MCCARTHY, in her official capacity as Administrator of the United States Environmental Protection Agency,

Respondents.

Petition for Review of Final Administrative Actions of the
United States Environmental Protection Agency

**OPENING BRIEF OF PETITIONERS ENVIRONMENTAL INTEGRITY
PROJECT, SIERRA CLUB, AND WATERKEEPER ALLIANCE, INC.**

Dated: December 5, 2016

Counsel listed on following page

Court should therefore vacate and remand the BAT limits for leachate contained in 40 C.F.R. § 423.13(l).

CONCLUSION

For the foregoing reasons, the Court should vacate and remand the following provisions of the final ELG rule:

- The BAT limits for legacy wastewater codified at 40 C.F.R. § 423.13(g)(1)(ii), (h)(1)(ii), and (k)(1)(ii); and
- The BAT limits for leachate codified at 40 C.F.R. § 423.13(l).

Respectfully submitted,

s/Thomas Joseph Cmar
Thomas Joseph Cmar
Earthjustice
1101 Lake St., Ste. 405B
Oak Park, IL 60301
(312) 257-9338 (phone)
(212) 918-1556 (facsimile)
tcmar@earthjustice.org

s/Matthew Gerhart
Matthew Gerhart
Earthjustice
633 17th St., Suite 1600
Denver, CO 80202
(303) 996-9612 (phone)
(303) 623-8083 (facsimile)
mgerhart@earthjustice.org

Counsel for Sierra Club, Environmental Integrity Project, and Waterkeeper Alliance, Inc.