

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

SIERRA CLUB,

Plaintiff,

vs.

MIDAMERICAN ENERGY COMPANY,

Defendant.

No. 4:07-cv-00195-JAJ-RAW

PLAINTIFF'S NOTICE OF DISMISSAL

Plaintiff, Sierra Club, hereby notifies the Court and Defendant, pursuant to Fed. R. Civ. P. 41(a)(1), that Plaintiff dismisses its Complaint against Defendant without prejudice. The reason for this dismissal is as follows:

1. This Action was commenced by Sierra Club on May 8, 2007.
2. On June 1, 2007, Defendant's Waiver of Summons was filed with the Court.
3. During the period between Sierra Club's Complaint and the deadline for Defendant's Answer, Defendant negotiated a settlement with the Iowa Attorney General.
4. On June 11, 2007, the State of Iowa filed an action against Defendant MidAmerican Energy in Pottawattamie County, Iowa. On the same day, without notice to Sierra Club who had an interest in the state's case because of this pending Action, the State of Iowa and Defendant filed a proposed Consent Order, Judgment and Decree with the state court.
5. The Consent Order and Judgment, requiring only nominal civil penalties, purports to release MidAmerican from all claims was entered without notice to Sierra Club.

6. After Plaintiff Sierra Club filed its Complaint alleging Clean Air Act violations, defendant and the State of Iowa, through the Iowa Attorney General, began negotiations regarding the Iowa Department of Natural Resources violations. Plaintiff did not receive notice of the negotiations.

7. Because Defendant's negotiated settlement with the state was intended to prejudice Sierra Club in this case, because it purports to contain the bare minimum for a valid claim of *res judicata* of only those claims filed by Defendant, Sierra Club hereby dismissal is without prejudice in order to pursue additional claims in the future.

Dated this 27th day of September, 2007.

Plains Justice

/s/ _____

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/s/ _____

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