

ILLINOIS POLLUTION CONTROL BOARD
January 11, 1995

IN THE MATTER OF:)
)
THE JOINT PETITION OF THE)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY AND CITY OF METROPOLIS) AS 94-17
FOR ADJUSTED STANDARD FROM) (Adjusted Standard)
SUSPENDED SOLIDS, BOD, AND AMMONIA)
NITROGEN REGULATIONS AT 35 ILL.)
ADM. CODE PART 304)

ORDER OF THE BOARD (by J. Yi):

On November 21, 1994, the Illinois Environmental Protection Agency (Agency) and the City of Metropolis (City) filed a joint petition for adjusted standard relief pursuant to Section 28.1 of the Environmental Protection Act (Act) and the Board's procedural rules at 35 Ill. Adm Code 106.701 et. seq. The City and the Agency are requesting adjusted standard relief from the effluent standards for suspended solids, BOD, and ammonia nitrogen set forth at 35 Ill. Adm. Code Part 304 as these standards apply to the City's wastewater treatment facility.

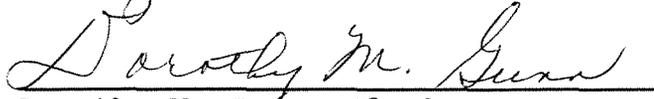
Section 28.1(d)(1) of the Act requires a petitioner of an adjusted standard to "...submit to the Board proof that, within 14 days after the filing of the petition, it has published notice..." and 35 Ill. Adm. Code 106.712 requires that "[w]ithin 30 days after the filing of the petition, the petitioner shall file a certificate of publication, issued by the publisher of the petition notice certifying the publication of that notice." Therefore the City and the Agency had until December 21, 1994 to file the certification of publication. Publication of notice of filing is jurisdictional. (See, e.g., In re Petition of Rhone-Poulenc Basin Chemical Company, (January 20, 1994), AS 93-9; Leroy Brown & Sons, Inc., v. County Board, (February 4, 1993) PCB 92-132, 139 PCB 51; citing Kane County Defenders, Inc. v. PCB, (2nd Dist. 1985), 139 Ill. App. 3d 588, 487 N.E. 2d 743, and Illinois Power Company v. PCB, (4th Dist. 1985), 137 Ill. App. 3d 499, 484 N.E. 2d 898.)

The Board has not recieved the required certification and therefore dismisses this matter and directs the Clerk of the Board to close this docket. Petitioner may refile the petition and publish notice of the new petition within 14 days of that filing in order to correct the defective notice.¹

¹ See also In re Petition of the City of Wood River, (Nov. 3, 1994) AS 94-14 and In re Petition of the City of Wood River, (Nov. 3, 1994) AS 94-16.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 15th day of January, 1995, by a vote of 6-5.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board