

ILLINOIS POLLUTION CONTROL BOARD  
October 21, 1999

IN THE MATTER OF: )  
)  
PETITION OF THE ENSIGN-BICKFORD COMPANY ) AS 00-5  
FOR AN ADJUSTED STANDARD FROM 35 ILL. ADM. ) (Adjusted Standard - Air)  
CODE 237.103 )  
)

ORDER OF THE BOARD (by N.J. Melas):

On August 11, 1999, The Ensign-Bickford Company (EBCO) filed a petition for an adjusted standard (petition) with the Board under 35 Ill. Adm. Code 237.103. EBCO requested that the Board grant it relief from open burning restrictions in the Board's rules for its facility at Wolf Lake in Union County. However, EBCO failed to timely cause publication of the required notice. As a result, the Board dismissed the petition, but allowed EBCO leave to refile the petition. See In re The Ensign-Bickford Company (September 23, 1999), AS 00-3.

On September 23, 1999, EBCO refiled the petition for the adjusted standard with the Board under 35 Ill. Adm. Code 237.103. On that same date, EBCO filed a motion requesting that the Board incorporate the record from docket AS 00-3 into a new docket which the Board has numbered docket AS 00-5. Pursuant to Board regulations, EBCO caused timely publication of the required notice on September 30, 1999, and filed a certificate of publication with the Board on October 20, 1999. See 35 Ill. Adm. Code 106.711 and 106.712.

The notice is required to inform interested persons that they may request a hearing on the adjusted standard petition. See 415 ILCS 5/28.1(d)(1) (1998). While EBCO's notice included the information required by Section 28.1(d)(1), typographical errors in the notice may have impaired the notice's effectiveness:

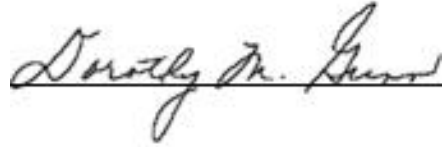
1. The ZIP Code in the address to which interested persons are directed to send requests for a hearing was incorrect. That address is the Board's Chicago office, and the ZIP Code published was 60610. The actual ZIP Code of the Board's office is 60601. As a result of the error, a request for hearing may not have reached the Board.
2. The notice states that the docket number for this matter is "PCB-AS 00-5" which is incorrect. The notice should state that the docket number is simply AS 00-5. This error may cause confusion between dockets AS 00-5 and PCB 00-5. PCB 00-5 is a docket that is completely unrelated to AS 00-5.

The errors are technical violations of 35 Ill. Adm. Code 106.711(b), but the Board concludes that the errors are not jurisdictional. Accordingly, the Board is not required to dismiss EBCO's petition. In the interest of efficiency, the Board will allow EBCO to cure the errors and proceed with this petition. EBCO is hereby directed to publish a new notice, fully compliant with Section 106.711, within 14 days of the date of this order. Upon publication, EBCO must file a new certificate of publication with the Board.

The Board accepts the refiled petition for hearing and grants the motion to incorporate the record from docket AS 00-3 into a new docket, AS 00-5.

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 21st day of October 1999 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board