

ILLINOIS POLLUTION CONTROL BOARD

March 2, 2006

IN THE MATTER OF:)
)
PETITION OF BP PRODUCTS NORTH) AS 06-2
AMERICA, INC. FOR AN ADJUSTED) (Adjusted Standard - Land)
STANDARD PURSUANT TO 35 ILL. ADM.)
CODE 721.122)

ORDER OF THE BOARD (by T.E. Johnson):

Today the Board dismisses a January 19, 2006 petition for an adjusted standard filed by BP Products North America, Inc. (BP). BP seeks an adjusted standard delisting leachate generated from the Pond 1 Landfill at the Riverfront Property, formerly the Amoco Wood River refinery, in Madison County. *See* 35 Ill. Adm. Code 721.132. The Illinois Environmental Protection Agency (Agency) has not filed a recommendation in this matter.

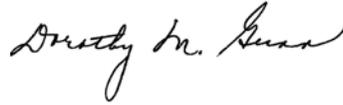
Board rules provide that “[w]ithin 30 days after the filing of the petition, the petitioner must file a certificate of publication, issued by the publisher of the petition notice certifying the publication of that notice.” 35 Ill. Adm. Code 104.410. Further, publication of notice of filing within 14 days after filing is jurisdictional. *See In re* Petition of SCA Tissue North America, L.L.C., AS 05-1 (Jan. 6, 2005); *In re* Horsehead Resource and Development Company, Inc., AS 00-1 (Aug. 5, 1999); *In re* Heritage Environmental Services, Inc., AS 00-14 (June 8, 2000). BP did not file proof of publication with the Board. As a result, the Board has no basis to conclude that it has statutory authority to hear the petition.

Accordingly, the Board dismisses BP’s petition for an adjusted standard and closes the docket. BP may refile at a later date.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2004); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board’s procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 2, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board