

ILLINOIS POLLUTION CONTROL BOARD

July 26, 2007

IN THE MATTER OF:)
)
PETITION OF THE ILLINOIS) AS 07-7
DEPARTMENT OF TRANSPORTATION,) (Adjusted Standard – Water)
DISTRICT 8, FOR AN ADJUSTED)
STANDARD FROM 35 ILL. ADM. CODE)
302.208(g) (NPDES Permit No. ILD007095))

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

On June 8, 2007, the Illinois Department of Transportation (IDOT) filed a petition for an adjusted standard from the Board’s general use water quality standards. Specifically, IDOT seeks relief from the sulfates and total dissolved solids (TDS) standards at 35 Ill. Adm. Code 302.208(g). IDOT’s petition for relief concerns discharge from its East St. Louis District 8 Bowman Avenue Pump Station and Missouri Avenue Pumping system, which is subject to National Pollutant Discharge Elimination System (NPDES) permit No. ILD007095.

Section 28.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/28.1 (2006)) and Section 104.408(a) of the Board’s procedural rules (35 Ill. Adm. Code 104.408(a) (quoting the Act)) require the adjusted standard petitioner to publish notice of the petition’s filing by advertisement in a newspaper of general circulation in the area likely to be affected by the proposed adjusted standard. Under those provisions, publication must take place within 14 days after the petition is filed. The newspaper notice must indicate that any person may cause a public hearing to be held on the proposed adjusted standard by filing a hearing request with the Board within 21 days after publication. *See* 415 ILCS 5/28.1(d)(1) (2006); 35 Ill. Adm. Code 104.408(b).

Within 30 days after filing the petition, petitioner must file a certificate of publication with the Board. *See* 35 Ill. Adm. Code 104.410. Failure to publish within 14 days deprives the Board of statutory authority to hear the petition. *See, e.g., In re Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c), AS 05-1 (Jan. 6, 2005)* (dismissing adjusted standard petition for lack of jurisdiction when publication of notice took place after the 14-day period).

More than 30 days have elapsed since IDOT filed its adjusted standard petition with the Board. IDOT has not filed a certificate documenting that the necessary notice of its petition was published within 14 days after the petition’s filing. On July 25, 2007, however, IDOT filed a “Notice of Withdrawal of Petition for Adjusted Standard,” which the Board construes as a motion to withdraw. The Board grants that motion, dismisses IDOT’s petition, and closes this docket. Nothing in this order precludes IDOT from filing another adjusted standard petition for the same relief and providing proof of the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 26, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board