




Petitioners are ordered to amend the petition to name the Agency and Akron as respondents and to provide them with service as required by the Procedural Rules. This matter will be subject to dismissal unless an amended petition showing correction of the noted deficiencies is received within fourteen days of the date of this Order.

The Board has received a letter from an attorney representing Akron and a copy of a letter to the Agency from Petitioners' attorney. Both of these request advice on legal matters. Parties should forward copies of all correspondence directed to the Board to all other parties. Since this is the first Section 40(b) petition received by the Board all these represent novel questions of law. The parties may renew their requests by way of motion after proper joinder and service.

The Petitioners should be aware that there is an issue concerning application of the ninety day decision rule of Section 40(a). The Board construes Section 40 as giving Akron a right to decision within ninety days of filing of the petition (October 6, 1980) unless Akron waives this right. It is Petitioners' responsibility to ensure that a hearing is scheduled and a transcript provided the Board in advance of any decision date. On October 16, 1980 Akron filed objections to the petition. The Board will consider these issues after proper joinder.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30<sup>th</sup> day of October, 1980 by a vote of 5-0.

  
\_\_\_\_\_  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board