

ILLINOIS POLLUTION CONTROL BOARD  
January 20, 1994

IN THE MATTER OF: )  
)  
PETITION OF THE RHONE-POULENC BASIN ) AS 93-9  
CHEMICAL COMPANY, THORN CREEK ) (Adjusted Standard)  
BASIN SANITARY DISTRICT FOR AN )  
ADJUSTED STANDARD FROM 35 ILL. ADM. )  
CODE 302.201 AND 304.105 )

ORDER OF THE BOARD (by R.C. Flemal):

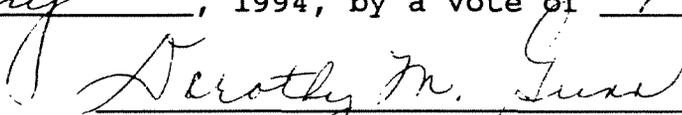
This adjusted standard petition was filed on December 15, 1993. On January 14, 1994 petitioner filed proof of petition notice and a motion to accept the notice. Petitioner reports that the Illinois Environmental Protection Agency has no objection to the motion and will not be filing a response.

35 Ill. Adm. Code 106.711 and Section 28.1 of the Environmental Protection Act require that a petitioner for adjusted standard publish newspaper notice of the petition within 14 days after the date that the petition is filed with the Board. Petitioner states that publication did not occur within the fourteen days, but rather occurred within 22 days (eight days late). Publication of notice of filing is jurisdictional. (See, e.g., 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.) Since the publication did not occur within the statutorily prescribed 14-day period, the Board does not have jurisdiction to hear the petition.

The Board hereby denies the motion and dismisses this petition. 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.

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 20th day of January, 1994, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board