

ILLINOIS POLLUTION CONTROL BOARD

October 19, 2000

IN THE MATTER OF: )  
)  
PETITION OF BORDEN CHEMICALS & PLASTICS ) AS 01-4  
OPERATING LIMITED PARTNERSHIP FOR AN ) (Adjusted Standard - Water)  
ADJUSTED STANDARD FROM 35 ILL. ADM. CODE )  
304.105 AS IT APPLIES TO 35 ILL. ADM. CODE )  
302.211(b)-(e) )  
)

ORDER OF THE BOARD (by M. McFawn):

On August 30, 2000, Borden Chemicals & Plastics Operating Limited Partnership (Borden) filed a petition with the Board for an adjusted standard from 35 Ill. Adm. Code 304.105 as it applies to 35 Ill. Adm. Code 302.211(b)-(e). The petition requests that the Board grant Borden relief from the general use water quality standards for temperature for its Illiopolis, Sangamon County, Illinois, facility.

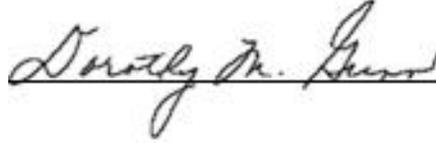
Pursuant to the Environmental Protection Act and the Board's regulations, Borden is to cause notice of the petition by publication in a newspaper of general circulation within 14 days after the filing of the petition. See 415 ILCS 5/28.1 (1998); 35 Ill. Adm. Code 106.711 and 106.712. The 14-day notice deadline expired September 13, 2000. The notice did not appear until September 14, 2000.

Publication of notice of filing is jurisdictional. (See In re Rhone-Poulenc Basin Chemical Company (January 20, 1994), AS 93-9; LeRoy Brown & Sons, Inc. v. County Board of McDonough County, (February 4, 1993), PCB 92-132 citing Kane County Defenders, Inc. v. PCB, 139 Ill. App. 3d 588, 487 N.E.2d 743 (2nd Dist. 1985) and Illinois Power Company v. PCB, 137 Ill. App. 3d 449, 484 N.E.2d 898 (4th Dist. 1985).) Publication did not occur within the 14-day period and, as a result, the Board does not have statutory authority to hear the petition.

The Board therefore dismisses the petition and directs the Clerk of the Board to close docket AS 01-4. Borden 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 19th day of October 2000 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board