

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

JUN 23 2006

STATE OF ILLINOIS
Pollution Control Board

L. KELLER OIL PROPERTIES / FARINA)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,)

Respondent.)

PCB No. 06-189 and PCB No. 06-190

NOTICE OF FILING

TO: William Ingersoll
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

PLEASE TAKE NOTICE that on June 23, 2006, filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original, executed copies of two (2) Petitions for Review of Illinois Environmental Protection Agency Decisions and Motion to Consolidate.

Dated: June 23, 2006

Respectfully submitted,

L. KELLER OIL PROPERTIES / FARINA

By:

Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
338811v1

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached two (2) Petitions for Review of Illinois Environmental Protection Agency Decisions and Motion to Consolidate by placing a copy in an envelope addressed to:

William Ingersoll
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

from One North Wacker Drive, Suite 4400, Chicago, Illinois, before the hour of 5:00 p.m., on this 23rd Day of June, 2006.


Carolyn S. Hesse

RECEIVED
CLERK'S OFFICE

JUN 23 2006

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

L. KELLER OIL PROPERTIES, Inc. / FARINA)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

PCB 06-189 and PCB 06-190

MOTION TO CONSOLIDATE

NOW COMES L. Keller Oil Properties, Inc. by one of its attorneys, Carolyn Hesse of Barnes & Thornburg, pursuant to 35 Ill. Adm. Code 101.406 and hereby moves to consolidate the two appeals of Illinois Environmental Protection Agency ("Agency") decisions that are being filed on this date. In support of this motion, Petitioner states as follows:

1. Both of the appeals filed at the same time as this Motion to Consolidate involve similar letters from the Agency regarding the same former gasoline service station located at 1003 West Washington Avenue, Farina, Fayette County, Illinois. This property is owned by L. Keller Oil Properties, Inc.
2. Both appeals are related to corrective action activities at that site.
3. Because the factual basis of the petitions are closely related, consolidating the petitions into one proceeding will be more convenient to the Board, the Agency and Petitioner; consolidation will also result in a more expeditious and complete determination of the issues and would not cause material prejudice to any party. Further, consolidation of the appeals will provide for a more efficient administration of justice and reduce duplication of efforts that would be required

if the appeals were handled separately. The burden of proof for the appeals is identical and will be based on nearly identical facts and background information.

WHEREFORE, Petitioner, L. Keller Oil Properties, Inc. respectfully requests that the Board grant its motion to consolidate the petitions filed on this date.

Respectfully submitted,

L. Keller Oil Properties, Inc. / Farina

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
338777v1

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

RECEIVED
CLERK'S OFFICE

JUN 23 2006

L. KELLER OIL PROPERTIES, Inc. / FARINA)
(Incident No. 20060153))

STATE OF ILLINOIS
Pollution Control Board

Petitioner,)

v.)

PCB No. 06- 189

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

**PETITION FOR REVIEW OF ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY DECISION**

L. Keller Oil Properties, Inc. / Farina, by its attorney, Carolyn S. Hesse of Barnes & Thornburg, pursuant to the Illinois Environmental Protection Act, 415 ILCS 5/1 *et. seq.* (the "Act") and 35 Illinois Administrative Code Section 105.400 *et. seq.*, hereby appeals certain decisions by the Illinois Environmental Protection Agency (the "Agency").

1. L. Keller Oil Properties, Inc. ("Petitioner"), is the owner of property where a former gasoline service station was located at 1003 West Washington Avenue, Farina, Fayette County, Illinois (the "Station"). This gasoline service station had underground storage tanks (UST's) on the property, which stored gasoline, diesel fuel and heating oil.
2. LUST Incident Number 20060153 was obtained following a site investigation during which it was determined that the diesel fuel and heating oil USTs leaked. The site has also been assigned LPC #0514155011 - Fayette County.

3. Petitioner sent to the Agency a 45-Day Report ("Report") dated March 23, 2006, in accordance with applicable regulations. (See Exhibit 1.) The Agency received this document on March 24, 2006.
4. On May 22, 2006, the Agency sent a letter to Petitioner (the "Letter") that referenced the 45-Day Report and stated as follows:

Based on the information currently in the Illinois EPA's possession, this incident is not subject to Title XVI of the Act or 35 Ill. Admin. Code 731. Therefore, the Illinois EPA leaking underground storage tank section had no reporting requirements regarding this incident.

(See Exhibit 2.)
5. The Letter also refers to Office of State Fire Marshall ("OSFM") regulations at 41 Ill. Admin. Code 170.580 regarding confirmation of releases. Although it is not clear from the Letter, it appears that the Agency is claiming that the 45-day Report does not state that a release was confirmed within 14 days of the initial release report, and as a result, the incident is not subject to the Act or to rules regulating underground storage tanks. (See Exhibit 2.)
6. The Agency's Letter provides no additional information regarding IEPA's decision.
7. Although the Illinois EPA Letter of May 22, 2006, does not specifically state Petitioner's right to file an appeal, the nature and tone of the Letter is a final decision refusing Petitioner's request, which pursuant to Section 40 of the Act, 415 ILCS 5/40, and 35 Ill. Admin. Code 105.400 *et. seq.* provides Petitioner with appeal rights.

8. Petitioner is appealing the Agency's decision Letter dated May 22, 2006.
9. The Agency's conclusions that the incident is not subject to Title XVI of the Act or 35 Ill. Admin. Code 731 is in error and is contrary to information in the Agency's file. Because the release was discovered and reported in 2006, it is subject to Title XVI.
10. Petitioner complied with the OSFM's regulations at 41 Ill. Admin. Code 170.
11. Because petroleum odor and discoloration were observed in soils immediately adjacent to the diesel fuel UST and next to the heating oil UST, a release was reported on February 10, 2006. A release of petroleum products was confirmed at the site on the day of the initial release report to the Agency. Further, when the diesel fuel and heating oil tanks were removed on March 22, 2006, the Office of the State Fire Marshall reconfirmed the release.
12. The Office of the State Fire Marshall determined that the subject underground tanks were eligible for reimbursement from the Underground Storage Tank Trust Fund. *See* Exhibit 3.
13. The Agency's decision is contrary to information in the Agency's files.
14. An extension of the Early Action time period was requested from the Agency and in a letter dated March 10, 2006, the Agency approved an extension of the Early Action time period at this site. (*See* Exhibit 4.)
15. In a letter dated March 22, 2006, Petitioner's consultant advised the Agency that when the tanks were removed, "[c]ontamination was evident

within the excavation and it was attributed to the initial incident.” (See Exhibit 5.)

16. By letter dated April 7, 2006, the Agency acknowledged receipt of the 45-Day Report and a Stage 1 Site Investigation Plan and Budget. By that same letter, the Agency approved the Stage 1 Site Investigation Plan. (See Exhibit 6.)
17. The Agency’s decision set forth in the Letter from which this appeal is being taken is without merit and is contrary to the Act and implementing regulations.

WHEREFORE, L. Keller Oil Properties, Inc. / Farina respectfully requests that the Board enter an order reversing the Agency’s letter dated May 22, 2006 and requiring the Agency to honor the Office of the State Fire Marshall’s eligibility determination and for L. Keller Oil Properties, Inc. / Farina’s attorneys’ fees and costs in bringing this appeal.

Respectfully submitted,

L. Keller Oil Properties, Inc./Farina

By: Carolyn S. Hesse
One of Its Attorneys

Carolyn S. Hesse, Esq.
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606
(312) 357-1313
342822v1

45-DAY REPORT

Farina 711

Farina, Illinois
LPC # 0514155011—Fayette County
Incident Number 06-0153

Submitted to:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Leaking Underground Storage Tank Section, Bureau Of Land
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Prepared by:

CW³M COMPANY, INC.

701 South Grand Avenue West
Springfield, Illinois
(217) 522-8001

400 West Jackson, Suite C
Marion, Illinois
(618) 997-2238

MARCH 2006



Project Manager: MKC

ACTION ITEMS		
X	Check LPC #	MKC
X	References, table of contents, tables, acronyms	MKC
X	Date site was inspected/mapped/waste characterization	MKC
X	All Maps Drawn (Location, Utility, Topo)	MKC
X	Request soil condition, reference, climate information	MKC
X	Tank status verified	MKC
X	45-Report form complete and updated	MKC
X	Cover letter & receipt	MKC

DOCUMENT REVIEW				
Incident Reported: 02/10/06				
Due to IEPA: 03/27/06				
Reviewer	Date Distributed	Date Completed	Date Incorporated	Comments Incorporated
Carol Rowe	3/15/06	3/19/06	3/23/06	3/23/06
Vince Smith	3/15/06	3/16/06	3/23/06	3/23/06
Jeff Wienhoff	3/15/06	3/17/06	3/23/06	3/23/06

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ACRONYMS AND ABBREVIATIONS

HAZWOPER	Hazardous Waste Operations and Emergency Response
IDOT	Illinois Department Of Transportation
IEMA	Illinois Emergency Management Agency
IEPA	Illinois Environmental Protection Agency
ILCS	Illinois Code of Statutes
ISGS	Illinois State Geological Survey
ISWS	Illinois State Water Survey
JULIE	Joint Utility Locating Information for Excavators
OSFM	Illinois Office of the State Fire Marshal
OSHA	Occupational Safety and Health Administration
UST	Underground Storage Tank
USDA	United States Department of Agriculture

1. INTRODUCTION

L. Keller Oil Properties, Inc., owner of the underground storage tanks (USTs) at the Farina 711, reported a suspected release to the Illinois Emergency Management Agency (IEMA). Incident Number 06-0153 was assigned on February 10, 2006. L. Keller Oil Properties, Inc., then requested CW³M Company, Inc. to proceed with the reporting and early action requirements in accordance with the requirements of 35 Ill. Adm. Code § 734. This 45-Day Report is being prepared in response to Incident Number 06-0153.

The 20-Day Certification was submitted to the Illinois Environmental Protection Agency (IEPA) on February 21, 2006. This 45-Day Report has been prepared in accordance with the requirements of 35 Ill. Adm. Code § 734. The 45-Day Report Form is included in this document as Appendix A.

The preliminary geological investigation presented in this document was performed under the direction of an Illinois Licensed Professional Geologist and was completed in accordance with the Professional Geologist Licensing Act and its Rules for Administration.

A request for extension of the early action period, through July 9, 2006, was submitted to the Illinois Environmental Protection Agency on March 2, 2006, in order to allow for additional time to complete the necessary clean-up and demobilization, receive and evaluate all field samples analytical results, and assemble all corrective action documentation. On March 10, 2006, the Agency approved the request through July 9, 2006 (IEPA, 2006). The 45-Day Addendum Report will be submitted within the approved time frame to document completion of the remainder of the early action activities.

2. SITE LOCATION

Farina 711 is located at I-57 & Rt 185, Farina, Fayette County, Illinois. The site is located in the NE ¼ of the NE ¼ of the NW ¼ of Section 32, Township 5 North of the Centralia Baseline and Range 4 East of the Third Principal Meridian.

3. BACKGROUND INFORMATION

Farina 711 reported an apparent release to the IEMA and Incident Number 06-0153 was assigned to the notification.

4. EARLY ACTION ACTIVITIES

Following IEMA notification of the apparent release, L. Keller Oil Properties, Inc., requested that CW³M proceed with reporting requirements and early action activities in accordance with 35 Ill. Adm. Code § 734.

While on site on February 13, 2006, in association with incident 2005-1539, CW³M personnel inspected the USTs and mapped the site. The tanks were inspected to ensure that as much of the regulated substance as possible had previously been removed. Additional inspections were conducted prior to UST removals to monitor for recoverable liquids in the tanks.

4.1 TANK REMOVAL ACTIVITIES

A description of the tanks is provided, detailing the conditions observed during removal. Tank information is included in Table 4-1.

Tank 4: This tank was found to be in good condition. OSFM Tank Specialist Weedman determined that the piping and overfills contributed to the release.

Tank 5: This tank was found to be in good condition. OSFM Tank Specialist Weedman determined that the piping and overfills contributed to the release.

Table 4-1. Underground Storage Tank Summary

Tank Number	Tank Volume (gallons)	Tank Contents	Incident Number	Release Information	Current Status
1	8,000	Gasoline	05-1539	Piping & Overfill	Removed 2/7/06
2	8,000	Gasoline	05-1539	Piping & Overfill	Removed 2/7/06
3	8,000	Gasoline	05-1539	Piping & Overfill	Removed 2/7/06
4	12,000	Diesel	06-0153	Piping & Overfill	Removed 3/22/06
5	1,000	Heating Oil	06-0153	Overfills	Removed 3/22/06

Prior to removal of the tanks, Joint Utility Locating Information for Excavators (JULIE) will be contacted to locate all utilities on the site. The tanks will be inspected again for any residual product that may have remained or water that may have accumulated.

4.2 SOIL REMOVAL

Backfill material removal was initiated following removal of the USTs and is currently underway.

4.3 GROUNDWATER

Groundwater was encountered at about eight to ten feet below the ground surface, during early action.

4.4 FREE PRODUCT

No free product has been found at the site.

5. SITE CHARACTERIZATION

5.1 NATURE AND QUANTITY OF RELEASE

On March 22, 2006, OSFM Tank Specialist Terry Weedman was at the site to oversee the tank removal activities conducted and coordinated by the CW³M Company, Inc. Removal of the tanks at the site confirmed the release and the factors that contributed to the release. The quantity of the release is unknown. However, it was confirmed to have migrated beyond the backfill materials into the surrounding native soil.

5.2 SURROUNDING POPULATIONS

The population of Farina, Illinois is 575 (IDOT, 1999). The site is surrounded by commercial, residential, and agricultural properties.

5.3 WATER QUALITY

According to the Illinois Pollution Control Board, three Class III Groundwater contributing area exist; however, they are located in McHenry County, Monroe County, and St. Clair County. Therefore, CW³M will consider the groundwater at this site to be Class I unless demonstrated otherwise pursuant to 35 Ill. Adm. Code § 620.210.

5.4 WELL DATA

A survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2,500 feet of the UST systems and all potable water supply wells within 200 feet of the UST systems is in progress. The Illinois State Water Survey (ISWS), the Illinois State Geological Survey (ISGS) and the IEPA Division of Public Water Supplies were contacted via Source Water Assessment Program online for information on water supply wells in the vicinity of the site on February 21, 2006. Additionally, the local unit of government with authority over the site will be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells. Information provided from the agencies will be documented in a subsequent report.

5.5 SUBSURFACE SOIL CONDITIONS AND REGIONAL GEOLOGY

5.5.1 Surficial Geology

According to the 1988 "Stack-unit map", the area consists of less than 6 meters (19.7 ft) of the Glasford Formation underlain by less than 6 meters (19.7 ft) of the shales from Pennsylvania bedrock (ISGS, 1988). The Glasford Formation classification is consistent with the "G" classification from the "Berg Circular" discussed below in Section 5.5.5.

5.5.2 Bedrock Geology

Under at least 20 feet of surficial deposits, lies Pennsylvanian bedrock (ISGS, 1984). The eastern Illinois Pennsylvanian rocks are largely composed of clastic rocks, sandstone, and in certain parts of the system siltstone, shale, coal and limestone can be found (ISGS, 1975).

5.5.3 Distribution of Aquifers

Fayette County is a favorable source for groundwater possibilities. Some of the water-yielding deposits, for Fayette County, come from sand and gravel deposits at depths below 50 to 150 feet, with a few occurring as deep as 200 feet (ISGS, 1957).

5.5.4 Soil Conditions

The Cisne land complex consists of poorly-drained, very slowly permeable soil with a seasonal high water table of 0 to 2 feet below land surface. The Cisne land complex has a low to high shrink-swell potential and a low organic matter content. (USDA, 1997).

5.5.5 Potential For Contamination Of Shallow Aquifers

This section provides a description of the anticipated regional geology. Specific data on site soils will be developed if site evaluation is required for this site. The literature that may be reviewed to determine consistency with ISGS Circular 532, also known as the "Berg Circular," is identified in Section 8 of this document.

ISGS Circular Number 532, the Berg Circular, indicates that the site is located in an area classified as "G". The area "G" is representative of a region composed of relatively impermeable bedrock.

The geologic limitations listed within the Berg Circular 532, concerning "G" sequence, states that the potential for contaminating shallow aquifers is very low (ISGS, 1984).

5.6 CLIMATOLOGICAL CONDITIONS

Fayette County has typical south-central Illinois temperatures, with mild winters and hot summers. The average annual precipitation is about 43 inches. The months of January and February are usually the driest months, and spring and summer months of March through June being the wettest. The warmest month is July and the coolest month is normally January (Weather.com, 2006).

5.7 LAND USE

The site is surrounded by residential, agricultural and commercial properties and is near Interstate 57.

6. SITE ASSESSMENT ACTIVITIES

6.1 INITIAL ABATEMENT MEASURES AND SITE CHECK

The USTs were inspected to ensure that the tank contents had been removed to prevent further release. The tanks were removed, contaminated backfill is being excavated and removed for disposal in an attempt to remove the contamination source and to prevent further migration of the contaminants.

6.2 FREE PRODUCT INVESTIGATION

No free product has been observed during CW³M site investigation activities. The free product investigation will continue, as necessary, throughout the early action period.

6.3 SAFETY PROCEDURES AND HAZARD MITIGATION

To ensure the health and safety of site workers and neighboring residents and properties during excavation and tank removal activities, the on-site supervisor was an Occupational Safety and Health Administration (OSHA) Certified Excavation Competent Person. All site workers have completed the OSHA 40-Hour Hazardous Waste Operations and Emergency Response (HAZWOPER) Site Safety training and refreshers. Persons who have not completed the necessary safety training were prevented from entering the work area.

7. CONCLUSIONS AND RECOMMENDATIONS

It was determined that a release had occurred from the USTs on the property. To avoid further migration of contamination, removal of the USTs was deemed prudent.

As stated previously, the removal of the USTs was conducted on March 22, 2006, under the supervision of OSFM Tank Specialist Terry Weedman. Removal of the contaminated backfill material and backfilling is currently underway at the site.

8. REFERENCES

IDOT, 1999. Illinois Department of Transportation, Official Highway Map, 1999-2000.

IEPA, 2006. Illinois Environmental Protection Agency, *Early Action Correspondence*, Farina 711, March 10, 2006.

ISGS, 1957. Lidia F. Selkregg, Wayne A. Pryor, and John P. Kempton, *Groundwater Geology in South-Central Illinois*, Illinois State Geological Survey, Circular 225, 1957.

ISGS, 1975. H. B. William, et al., Handbook of Illinois Stratigraphy, Illinois State Geological Survey, Bulletin 95, 1975.

ISGS, 1984. R. Berg, *et al*, *Potential for Contamination of Shallow Aquifers in Illinois*, Illinois State Geological Survey, Circular 532, 1984.

ISGS, 1988. R. Berg, and J. Kempton, Illinois State Geological Survey Circular 542, *Stack-Unit Mapping of Geologic Materials in Illinois to a Depth of 15 Meters*, 1988.

USDA, 1997. United States Department of Agriculture, Soil Conservation Service, in cooperation with Illinois Agricultural Experiment Station, *Soil Survey of Fayette County, Illinois*, July 1997.

Weather.com, 2006. Temperature and Precipitation Annual Averages, www.weather.com, accessed February 9, 2006.

APPENDIX A

45-DAY REPORT FORM

**45-DAY REPORT
FARINA 711
FARINA, ILLINOIS**

APPENDIX B

SITE MAPS AND ILLUSTRATIONS

**45-DAY REPORT
FARINA 711
FARINA, ILLINOIS**

INDEX OF DRAWINGS

Drawing Number	Description	File Name
0001	Location Map	SiteMap.doc
0001a	Topographic Map	TopoMap.doc
0002	Site/Utilities Map	site.dwg

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

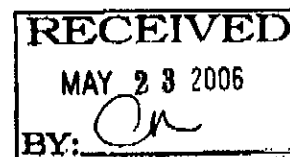
217/782-6762

CERTIFIED MAIL

7004 2510 0001 8590 3913

MAY 22 2006

L. Keller Oil Properties
Attention: Charles Keller
P.O. Box 70
Effingham, IL 62401



Re: LPC #0514155011 -- Fayette County
Farina / L. Keller Oil Properties
1003 West Washington Avenue
Leaking UST Incident No. 20060153
Leaking UST Technical File

Dear Mr. Keller:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the 45-day Report (report) submitted for the above-referenced incident. This report, dated March 22, 2006, was received by the Illinois EPA on March 24, 2006. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Based on the information currently in the Illinois EPA's possession, this incident is not subject to Title XVI of the Act or 35 Ill. Adm. Code 731. Therefore, the Illinois EPA Leaking Underground Storage Tank Section has no reporting requirements regarding this incident.

According to the information contained within the 45-day Report and other information in the division file, the above-referenced Incident number was assigned as a report of a suspected release of petroleum from the UST system pursuant to 41 IAC Section 170.560. Pursuant to 41 IAC, Section 170.580(b), owners and operators shall investigate and confirm all suspected releases within 14 days by conducting a site assessment pursuant to 41 IAC Section 170.580(c). Additionally, pursuant to 35 IAC 734.210(a), early action and other reporting duties are required upon confirmation of a release. Pursuant to 35 IAC, Section 734.115 "confirmation of a release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 IAC Section 170. It does not appear as though a release was confirmed within 14 days as required by the Section 170 regulations.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

EXHIBIT

tabbies

2

Page 2

If you have any questions or require further assistance, please contact Carol Hawbaker at 217/782-5713

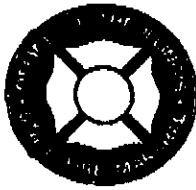
Sincerely,

A handwritten signature in black ink, appearing to read "Harry A. Chappel". The signature is fluid and cursive, with the first name "Harry" being more prominent.

Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAC:CLH

c: CW3M Company
BOL File



**Office of the Illinois
State Fire Marshal**
"Partnering With the Fire Service to Protect Illinois"

General Office

217-785-0989

FAX

217-782-1082

Divisions

ARSON INVESTIGATION

217-782-0118

BOILER and PRESSURE

VESSEL SAFETY

217-782-2696

FIRE PREVENTION

217-785-4714

MANAGEMENT SERVICES

217-782-9889

INFIRS

217-785-5826

HUMAN RESOURCES

217-785-1028

PERSONNEL STANDARDS

and EDUCATION

217-782-4542

PETROLEUM and

CHEMICAL SAFETY

217-785-5878

PUBLIC INFORMATION

217-785-1021

WEB SITE

www.state.il.us/osfm

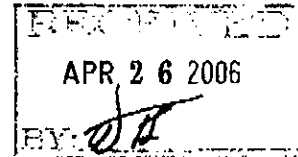
CERTIFIED MAIL - RECEIPT REQUESTED #7003 3110 0004 1274 7244

April 6, 2006

L. Keller Oil Properties, Inc.
c/o CW3M Company
P.O. Box 571
Carlinville, IL 62626

In Re:

Facility No. 6-007996
IEMA Incident No. 06-0153
Farina 711
I-57 & Rt. 185
Farina, Fayette Co., IL



Dear Applicant:

The Reimbursement Eligibility and Deductible Application received on March 27, 2006 for the above referenced occurrence has been reviewed. The following determinations have been made based upon this review.

It has been determined that you are eligible to seek payment of costs in excess of \$15,000. The costs must be in response to the occurrence referenced above and associated with the following tanks:

Eligible Tanks

Tank 4 12,000 gallon Diesel
Tank 5 1,000 gallon Heating Oil

You must contact the Illinois Environmental Protection Agency to receive a packet of Agency billing forms for submitting your request for payment.

An owner or operator is eligible to access the Underground Storage Tank Fund if the eligibility requirements are satisfied:

1. Neither the owner nor the operator is the United States Government,
2. The tank does not contain fuel which is exempt from the Motor Fuel Tax Law,
3. The costs were incurred as a result of a confirmed release of any of the following substances:
"Fuel", as defined in Section 1.19 of the Motor Fuel Tax Law
Aviation fuel

1035 Stevenson Drive • Springfield, Illinois 62703-4259

Printed on Recycled Paper

EXHIBIT

3

tabbies

Heating oil

Kerosene

Used oil, which has been refined from crude oil used in a motor vehicle, as defined in Section 1.3 of the Motor Fuel Tax Law.

4. The owner or operator registered the tank and paid all fees in accordance with the statutory and regulatory requirements of the Gasoline Storage Act.
5. The owner or operator notified the Illinois Emergency Management Agency of a confirmed release, the costs were incurred after the notification and the costs were a result of a release of a substance listed in this Section. Costs of corrective action or indemnification incurred before providing that notification shall not be eligible for payment.
6. The costs have not already been paid to the owner or operator under a private insurance policy, other written agreement, or court order.
7. The costs were associated with "corrective action".

This constitutes the final decision as it relates to your eligibility and deductibility. We reserve the right to change the deductible determination should additional information that would change the determination become available. An underground storage tank owner or operator may appeal the decision to the Illinois Pollution Control Board (Board), pursuant to Section 57.9 (c) (2). An owner or operator who seeks to appeal the decision shall file a petition for a hearing before the Board within 35 days of the date of mailing of the final decision, (35 Illinois Administrative Code 105.102(a) (2)).

For information regarding the filing of an appeal, please contact:

Dorothy Gumm, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601
(312) 814-3620

The following tanks are also listed for this site:

Tank 1 8,000 gallon Gasoline
Tank 2 8,000 gallon Gasoline
Tank 3 8,000 gallon Gasoline

Your application indicates that there has not been a release from these tanks under this incident number. You may be eligible to seek payment of corrective action costs associated with these tanks if it is determined that there has been a release from one or more of these tanks. Once it is determined that there has been a release from one or more of these tanks you may submit a separate application for an eligibility determination to seek corrective action costs associated with this/these tanks.

If you have any questions, please contact our Office at (217) 785-1020 or (217) 785-5878.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deanne Lock".

Deanne Lock
Administrative Assistant
Division of Petroleum and Chemical Safety

cc: IEPA
Facility File

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

217/782-6762

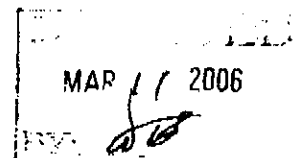
MAR 10 2006

L. Keller Oil Properties
P.O. Box 70
Effingham, IL 62401

CERTIFIED MAIL

7004 2510 0001 8591 2458

Re: LPC # 0514155011--Fayette County
Farina/L. Keller Oil Properties
1003 West Washington Avenue
LUST Incident No. 20060153
LUST Technical File



Dear Sir or Madam:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the correspondence submitted for the above-referenced incident. This Early Action Extension was received by the Illinois EPA on March 2, 2006. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The correspondence requested that the period for which early action costs be considered reimbursable be extended beyond the initial 45-day period. The Illinois EPA has determined that early action activities for the above-referenced incident may be conducted beyond the initial 45-day period. The initial 45-day period for which early action costs shall be considered reimbursable is extended to July 9, 2006.

Please note the Illinois EPA cannot extend the date on which the 45-Day Report is due. However, the 45-day period during which underground storage tank (UST) removal and early action activities are to be completed for reimbursement purposes may be extended pursuant to 35 Ill. Adm. Code Section 732.202(g). Therefore, the 45-Day Report must be submitted within 45 days of release confirmation.

An amended 45-Day Report or other report documenting the activities conducted during the early action extension period must also be submitted to the Illinois EPA. Please note that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g), and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

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Page 2

Submit all future correspondence to:

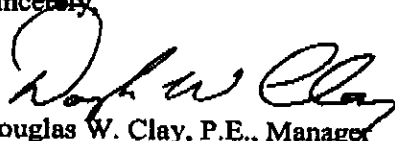
Illinois Environmental Protection Agency
Bureau of Land -- #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9267

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

Within 35 days after the date of mailing of this final decision, the owner or operator may petition for a hearing before the Illinois Pollution Control Board (Board) to contest the decision of the Illinois EPA. (For information regarding the filing of an appeal, please contact the Board at 312/814-3620.) However, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the owner or operator and the Illinois EPA within the 35-day initial appeal period. (For information regarding the filing of an extension, please contact the Illinois EPA's Division of Legal Counsel at 217/782-5544).

If you have any questions or need further assistance, please contact me at the telephone number listed above.

Sincerely,



Douglas W. Clay, P.E., Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

cc: Carol Rowe
Division File

CW²M Company701 W. South Grand Avenue
Springfield, IL 62704**Environmental Consulting Services**Phone: (217) 522-8001
Fax: (217) 522-8009

March 22, 2006

Mr. Douglas W. Clay, P.E., Manager
LUST Section, Bureau of Land
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

RE: LPC #0514155011—Fayette County
Farina/L. Keller Oil Properties, Inc. (Farina 711)
I-57 & Illinois Route 185
LUST Incident Number: 2006-0153
LUST Technical Reports—Release Confirmation/Incident Re-Reporting (06-0346)

Dear Mr. Clay:

On behalf of L. Keller Oil Properties, Inc./Farina 711 please be advised that UST removals were completed on March 22, 2006 under the supervision of OSFM Tank Specialist, Terry Weedman at the above referenced site. The tanks were removed from service in response to Incident Number 2006-0153. Contamination was evident within the excavation and it was attributed to the initial incident.

Mr. Weedman stated that standard OSFM procedure was to require owners/operators to report a release regardless of status of a pre-existing release. The UST system removal was conducted in response to Incident Number 2006-0153 as part of the early action measures.

The second incident, Incident Number 2006-0346 was reported on March 22, 2006. As there was no indication or evidence of a new release, on behalf of L. Keller Oil Properties, Inc., we respectfully request that the re-reported incident or release confirmation incident and all associated reporting requirements be dismissed.

701 W. South Grand Avenue
Springfield, IL 62704
(217) 522-8001

400 W. Jackson, Suite C
Marion, IL 62959
(618) 997-2238

EXHIBIT

tabbies

5

The 45-Day Report will be submitted to the Illinois Environmental Protection Agency within 45 days of the reported release. Information on activities performed during the time period beyond the initial 45 days will be submitted to the IEPA in an addendum. If you have any questions or require additional information, please contact Mr. Vince Smith or me at (217) 522-8001. Your attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to be 'Carol L. Rowe', with a large, stylized initial 'C' and a horizontal line extending to the right.

Carol L. Rowe, P.G.
Senior Environmental Geologist

xc: Mr. Charles F. Keller, *L. Keller Oil Properties, Inc.*
Mr. William T. Sinnott, *CW³M Company, Inc.*

I:/Keller06-0153/IEPA Cor\Rel Conf2ndlpc.doc



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1 021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

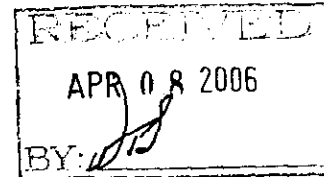
ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

April 7, 2006

L. Keller Oil Properties
Charles Keller
P.O. Box 70
Effingham, IL 62401



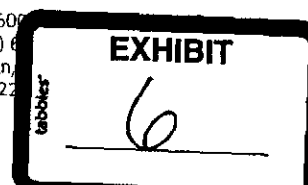
Re: LPC #0514155011 -- Fayette County
L. Keller Oil Properties
1003 West Washington Avenue
Leaking UST Incident No. 20060153
Leaking UST Technical File

Dear Owner/Operator:

The Illinois Environmental Protection Agency (Illinois EPA) has received the 45-Day Report, which included a Stage 1 Site Investigation Plan and Budget certification, for the above-referenced release. The report was dated March 23, 2006 and was received by the Illinois EPA on March 24, 2006. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

At a later time, the Illinois EPA will conduct a full technical review of the 45-Day Report and any other report submitted pursuant to Section 57.6 of the Act and 35 Ill. Adm. Code 734. Subpart B, in conjunction with any other plan or report selected for review (35 Ill. Adm. Code 734.505).

Pursuant to your certification, the Stage 1 Site Investigation Plan is approved and must be conducted in accordance with 35 Ill. Adm. Code 734.315. The budget, if applicable, is approved, and costs must not exceed the amounts set forth in 35 Ill. Adm. Code 734. Subpart H, Appendix D, and Appendix E. Please be advised that, if you do not meet the eligibility requirements as determined by the Office of the State Fire Marshal, you may not be entitled to payment from the Underground Storage Tank Fund for costs incurred. You must proceed with the Stage 1 site investigation in accordance with 35 Ill. Adm. Code 734.315.



The Illinois EPA has determined that, pursuant to Sections 57.7(a) and 57.12(c) and (d) of the Act and 35 Ill. Adm. Code 734.305, a site investigation plan and budget for the subsequent stage of investigation (including the results of the Stage 1 site investigation and a summary of actual costs) or a site investigation completion report (if the extent of contamination is defined) must be submitted within 90 days of the date of this letter. Please note that the Illinois EPA does not require the submission of a budget if the owner or operator does not intend to seek payment from the Underground Storage Tank Fund (Fund).

In addition, an owner or operator may choose to remediate soil and groundwater in accordance with the remediation objectives at 35 Ill. Adm. Code 742 without conducting a site investigation. If the owner or operator chooses not to investigate the site in accordance with the procedures established in Section 57.7(a) of the Act, the owner or operator may not be entitled to full payment if a request for payment from the Fund is submitted.

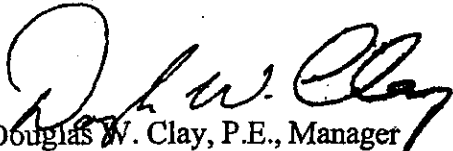
Submit all future correspondence to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

If you have any questions or need further assistance, please contact the project manager on-call in the Leaking Underground Storage Tank Section at the above number.

Sincerely,



Douglas W. Clay, P.E., Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

DWC:DKS:dks\

c: CW3M Co.
BOL File