

ILLINOIS POLLUTION CONTROL BOARD
September 20, 2001

L. KELLER OIL PROPERTIES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-34
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

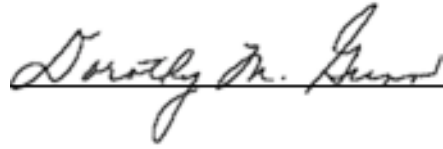
On September 17, 2001, L. Keller Oil Properties (Keller) timely filed a petition asking the Board to review an August 11, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.206(a). The Agency denied the corrective action plan submitted by Keller regarding its facility at 419 West Lincoln, Charleston, Coles County. Keller appeals on the grounds that a treatability study must be performed prior to the submission of a bioremediation corrective action plan, that new soil samples be taken as a result of new incident numbers at the site, that some groundwater samples be taken at nearby roadways to determine whether highway authority agreements are necessary, and that reports must be submitted for new incident numbers so that they relate to the corrective action plan. The Keller petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Keller has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings “will be based exclusively on the record before the Agency at the time the permit or decision was issued.” 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only Keller may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Keller “may deem the permit issued.” 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is January 15, 2002, (the 120th day after September 17, 2001). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 10, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after Keller filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above order was adopted on September 20, 2001, by a vote of 6-0

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board