

ILLINOIS POLLUTION CONTROL BOARD  
April 1, 2004

L. KELLER OIL PROPERTIES, INC./	)	
EFFINGHAM/DOWNTOWN SUPER K,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-167
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.P. Novak):

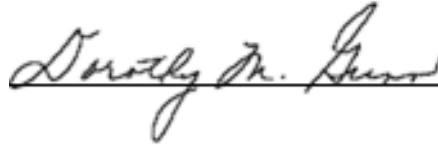
On March 23, 2004, L. Keller Oil Properties, Inc. (L. Keller Oil Properties) timely filed a petition asking the Board to review a March 4, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency denied petitioner's request for reimbursement of certain costs of corrective action from the Underground Storage Tank Fund for L. Keller Oil Properties' leaking underground petroleum storage tank facility located at 3rd & Fayette Avenue, Effingham, Effingham County. L. Keller Oil Properties appeals on the grounds that the costs submitted were reasonable, and the Agency denial was unreasonable, arbitrary, capricious, and without statutory authority. L. Keller Oil Properties' petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

L. Keller Oil Properties has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only L. Keller Oil Properties may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, L. Keller Oil Properties may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 21, 2004 (the 120th day after March 23, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 8, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 22, 2004, which is 30 days after L. Keller Oil Properties filed the petition. 35 Ill. Adm. Code 105.410(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 105.410(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 1, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board