

ILLINOIS POLLUTION CONTROL BOARD
October 7, 2004

L. KELLER OIL COMPANY/MOWEAQUA,))	
Petitioner,))	
v.))	PCB 05-62
ILLINOIS ENVIRONMENTAL))	(UST Appeal)
PROTECTION AGENCY,))	
Respondent.))	

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

On September 29, 2004, L. Keller Oil Company timely filed a petition asking the Board to review an August 25, 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 rejected petitioner's high priority corrective action plan budget for L. Keller Oil Company's leaking underground petroleum storage tank facility located at 201 South Main, Moweaqua, Shelby County.

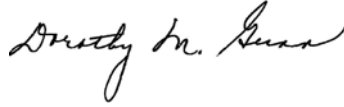
L. Keller Oil Company appeals on the grounds, among others, that the costs are reasonable and necessary to comply with minimum required activities at the site. L. Keller Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

L. Keller Oil Company 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 Company 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 Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is January 27, 2005 (the 120th day after September 29, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 20, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 6, 2004, which is 30 days after L. Keller Oil Company 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 October 7, 2004, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board