

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JUL 12 2007

STATE OF ILLINOIS
Pollution Control Board

L. KELLER OIL PROPERTIES/FARINA,)
)
Petitioner,)
v.) PCB No. 07-147
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

NOTICE

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

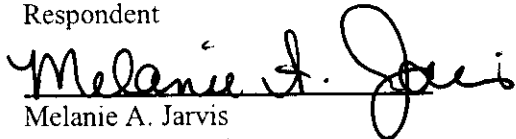
Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

Carolyn S. Hesse
Barnes & Thornburg
1 North Wacker Drive
Suite 4400
Chicago, IL 60606

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a MOTION TO STRIKE PORTIONS OF THE PETITIONER'S PETITION FOR REVIEW, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



Melanie A. Jarvis
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: July 10, 2007

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**MOTION TO STRIKE PORTIONS OF THE
PETITIONER'S PETITION FOR REVIEW**

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel and Special Assistant Attorney General, and, pursuant to 35 Ill. Adm. Code 101.500 and 101.502, hereby requests that the Illinois Pollution Control Board ("Board") strike paragraph 18 of the Petitioner's Petition for Review. In support of this motion, the Illinois EPA states as follows:

The Petitioner Makes Specious and Unfounded Allegations

The Petitioner, L. Keller Oil/Farina, by and through its counsel, filed a Petition for Review ("Petition") on or about June 27, 2007. Included in the Petition, in paragraph 18, are specious and unfounded allegations. Specifically, the Petition states that the Illinois EPA's denial letter was for the ".....sole purpose of harassing Petitioner's consultant, CW3M, delaying corrective action at the Station and increasing Petitioner's administrative costs of preparing the plans and budgets and is an abuse of IEPA's discretion." (Pet. at 5) Such statements are baseless. Even assuming the veracity of all facts presented within the Petition, which the Illinois EPA may dispute, there is no basis for the assertion in Paragraph 18 and therefore it must be stricken. To allow such an argument to stand as a basis for pleading requires the Board to

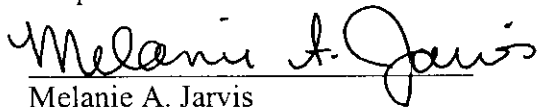
presume facts not presented and will unfairly require the Illinois EPA to respond to such assertions absent facts presented to respond to.

The Illinois EPA notes that the Board's decision in Knapp Oil v. Illinois EPA, PCB 06-052, through which the Board ruled in favor of the Illinois EPA, involve the same Illinois EPA Project Manager and Petitioner's consultant.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Board strike Paragraph 18 in the Petitioner's Petition.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



Melanie A. Jarvis

Assistant Counsel

Special Assistant Attorney General

Division of Legal Counsel

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

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Dated: July 10, 2007

This filing submitted on recycled paper.

CERTIFICATE OF SERVICE

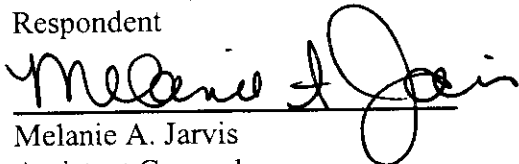
I, the undersigned attorney at law, hereby certify that on July 10, 2007 I served true and correct copies of an APPEARANCE and the ADMINISTRATIVE RECORD by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. Mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

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