

ILLINOIS POLLUTION CONTROL BOARD  
June 4, 2008

L. KELLER OIL PROPERTIES, INC.,	)	
TILTON SUPER K,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 09-111
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On May 20, 2009, L. Keller Oil Properties, Inc., Tilton Super K (Tilton) timely filed a petition asking the Board to review an April 15, 2009, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.402. Nicole we only leave this sentence in if the petition was mailed by US mail on the deadline. The Agency denied Tilton reimbursement for \$83,560.12 in costs associated with the removal of underground petroleum storage tanks from Tilton’s service station located at 100 East 2nd Street, in Tilton, Vermillion County.

Tilton appeals on the grounds that the Agency’s conclusion that Tilton’s costs were ineligible under 35 Ill. Adm. Code 7340.630(cc), due to lack of supporting documentation, was erroneous, arbitrary, and capricious. Tilton further appeals on the grounds that the Agency’s rejection of \$72,153.06 of those costs as ineligible under 35 Ill. Adm Code 734.630(ee), due to lack of “justification,” was also erroneous, arbitrary and capricious. Tilton’s petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Tilton 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) (2006)), which only petitioner may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, petitioner may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2006). Currently, the decision deadline is September 17, 2009 (the 120th day after May 20, 2009). *See* 35 Ill. Adm. Code 105.114. There is a Board meeting scheduled to occur on the September 17, 2009, decision deadline.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 22, 2009, which is the first business day following the 30th day after Tilton 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 4, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board