

ILLINOIS POLLUTION CONTROL BOARD  
December 14, 1994

PEOPLE OF THE STATE )  
OF ILLINOIS, )  
 )  
Complainant, )  
 )  
v. ) PCB 93-58  
 ) (Enforcement)  
L. KELLER OIL )  
PROPERTIES, INC., )  
 )  
Respondent. )

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a six-count complaint filed by complainant the People of the State of Illinois on March 19, 1993. On October 20, 1994, the Board issued an interim opinion and order, finding that respondent L. Keller Oil Properties, Inc. failed to comply in a timely manner with the reporting requirements of Sections 731.162(b) and 731.163(b) of our rules (35 Ill. Adm. Code 731.162(b) and 731.163(b)) for a January 26, 1990 release of petroleum at the Bartley Garage in Charleston. The Board ordered Keller to submit the missing reports, and assessed a total penalty of \$15,000. Additionally, we found that Keller had committed knowing violations of Board regulations, and thus awarded complainant its attorney's fees and costs pursuant to Section 42(f) of the Environmental Protection Act (Act). (415 ILCS 5/42(f) (1992).)

On October 31, 1994, the Office of the Attorney General filed its affidavit of attorney's fees and costs incurred in its representation of complainant. The affidavit of John J. Kim states that he spent 12 hours preparing the complaint, 15 hours preparing for the three hearings in this matter, and 8 hours preparing the post-hearing briefs, and suggests a rate of \$100 per hour, based on his qualifications and experience. Additionally, the affidavit states that complainant spent \$314.45 on the transcript of the three hearings. Thus, the attorney's fees and costs total \$3,814.45. Although our October 20 opinion and order allowed Keller 7 days to respond to the affidavit, Keller has not filed any response. We hereby find the requested attorney's fees reasonable, and award complainant the costs and attorney's fees requested in the affidavit.

ORDER

L. Keller Oil Properties, Inc. shall pay attorneys' fees of three thousand five hundred dollars (\$3,500), and costs of three hundred fourteen dollars and forty-five cents (\$314.45), as detailed in the affidavit of John J. Kim, filed October 31, 1994,

for a total of three thousand eight hundred fourteen dollars and forty-five cents (\$3,814.45). Unless payment has already been made, payment shall be made within 35 days of the date of this order by certified check or money order payable to the Treasurer of the State of Illinois, designated for deposit to the Hazardous Waste Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency  
Fiscal Service Division  
2200 Churchill Road  
Springfield, Illinois 62706

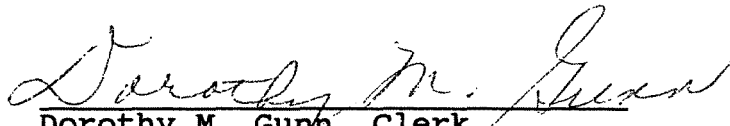
The certified check or money order shall clearly indicate on its face the case name and number, L. Keller Oil Properties' federal employer identification number or social security number, and that payment is directed to the Hazardous Waste Fund.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 14<sup>th</sup> day of December, 1994, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board