

ILLINOIS POLLUTION CONTROL BOARD
April 1, 2004

KELLER OIL PROPERTIES, INC.)	
(May 1, 2000 to August 31, 2000))	
(July 1, 2000 to March 31, 2001))	
(July 1, 2001 to March 31, 2002))	
(October 1, 1999 to July 1, 2000))	
(July 1, 2000 to March 31, 2001))	
(May 1, 2000 to June 30, 2002),)	
)	
Petitioner,)	
)	
v.)	PCB 03-129
)	PCB 03-130
ILLINOIS ENVIRONMENTAL)	PCB 03-131
PROTECTION AGENCY,)	PCB 03-136
)	PCB 03-137
Respondent.)	PCB 04-171
)	(UST Appeal)
)	(Consolidated)

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

On March 25, 2004, Keller Oil Properties, Inc. (Keller Oil) timely filed a petition asking the Board to review a March 1, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The costs were incurred for the period May 1, 2000 through June 30, 2002. The Agency denied reimbursement of certain corrective action costs regarding Keller Oil's underground storage tank site located at 419 West Lincoln, Charleston, Coles County.

Keller Oil appeals on the grounds that the costs submitted to the Agency were corrective action costs, the costs were reasonable, and the costs were of the types that are eligible for reimbursement. Keller Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Keller Oil 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 Keller Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Keller Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 23, 2004 (the 120th day after March 25, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 22, 2004.

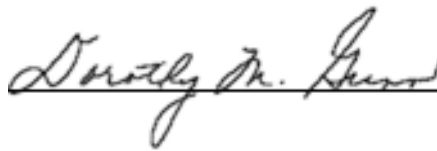
On March 25, 2004, Keller Oil filed a motion to consolidate the newly filed petition (PCB 04-171) with the previously consolidated petitions (PCB 03-129, PCB 03-130, PCB 03-131, PCB 03-136, and PCB 03-137). The previously consolidated petitions cover costs that were incurred for five separate periods: May 1, 2000 to August 31, 2000 for PCB 03-129; July 1, 2000 to March 31, 2001 for PCB 03-130; July 1, 2001 to March 31, 2002 for PCB 03-131; October 1, 1999 to July 1, 2000 for PCB 03-136; and July 1, 2000 to March 31, 2001 for PCB 03-137. In support of its motion, Keller Oil asserts that all six petitions relate to the same leaking underground storage tanks, but reflect different periods of time, and that consolidated consideration and decision on the petitions will result in a more expeditious and complete determination of the issues involved, without prejudice to any party involved. On July 25, 2003, Keller Oil filed an open waiver of the decision deadlines on the petitions involved in dockets PCB 03-129, PCB 03-130, PCB 03-131, PCB 03-136, and PCB 03-137.

The motion for consolidation of docket PCB 04-171 with consolidated dockets PCB 03-129, PCB 03-130, PCB 03-131, PCB 03-136, and PCB 03-137 is granted. The due date for decision in this consolidated docket will be determined based on the filing date of the earliest petitions filed for which Keller Oil has not filed waivers of the decision deadline: PCB 04-171.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 24, 2004, which is 30 days after Keller Oil 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", written in black ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board