

ILLINOIS POLLUTION CONTROL BOARD  
February 5, 2004

|                             |   |              |
|-----------------------------|---|--------------|
| KELLER OIL COMPANY/SULLIVAN | ) |              |
| SUPER K,                    | ) |              |
|                             | ) |              |
| Petitioner,                 | ) |              |
|                             | ) |              |
| v.                          | ) | PCB 04-133   |
|                             | ) | (UST Appeal) |
| ILLINOIS ENVIRONMENTAL      | ) |              |
| PROTECTION AGENCY,          | ) |              |
|                             | ) |              |
| Respondent.                 | ) |              |

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

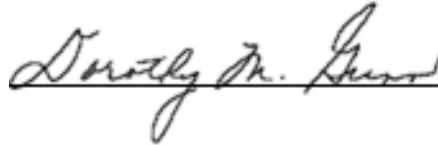
On January 27, 2004, Keller Oil Company/Sullivan Super K (Keller Oil Company) timely filed a petition asking the Board to review a December 24, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency rejected the high priority corrective action plan regarding Keller Oil Company's leaking UST facility at 104 South Hamilton, Sullivan, Moultrie County. Keller Oil Company appeals on the grounds that the Agency failed to provide written notice of (1) any specific type of information that the Agency would need to complete its review; (2) the Sections of the Act and Board regulations that would be violated if the plan as submitted had been approved; and (3) reasons by the plan as submitted to the Agency would have resulted in violation of the Act or Board regulations. Keller Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

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 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, Keller Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is May 26, 2004 (the 120th day after January 27, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 20, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 26, 2004, which is 30 days after 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 February 5, 2004, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board