

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

WARECO SERVICE, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-189
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On May 2, 2002, the Board, at the parties' request, extended until July 23, 2002, the time period within which Wareco Service, Inc. (Wareco) may appeal a March 20, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40 (a)(1) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.406. On July 26, 2002, Wareco filed a petition asking the Board to review the Agency's determination.

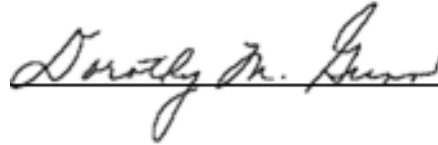
The Agency denied part of Wareco's request for reimbursement from the Underground Storage Tank Fund regarding a leaking underground storage tank site at 1309 Grand Avenue, Galesburg, Knox County. Wareco appeals on the grounds that the Agency's denial is allegedly arbitrary, capricious, and without statutory authority. Wareco's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Wareco 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) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002), which only Wareco may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Wareco may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002. Currently, the decision deadline is November 23, 2002 (the 120th day after July 26, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for November 21, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by August 26, 2002. 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 August 8, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board