

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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JAN 10 2006

WARECO SERVICE, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 06- 125
(LUST Appeal - Ninety Day Extension)

NOTICE

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Edward W. Dwyer
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 6, 2006

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**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

JAN 10 2006

**STATE OF ILLINOIS
Pollution Control Board**

WARECO SERVICE, INC.,)
 Petitioner,)
 v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
 Respondent.)

PCB No. 06- *125*
(LUST Appeal – Ninety Day Extension)

REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, John J. Kim, Assistant Counsel and Special Assistant Attorney General, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board ("Board") grant an extension of the thirty-five (35) day period for petitioning for a hearing to April 10, 2006, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA's final decision. The 125th day from the date of service is April 9, 2006, a Sunday, and the next business day is April 10, 2006. In support thereof, the Illinois EPA respectfully states as follows:

1. On December 5, 2005, the Illinois EPA issued a final decision to the Petitioner.
(Exhibit A)

2. On January 4, 2006, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The Petitioner stated that the final decision was received on December 5, 2006. (Exhibit B)

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

A handwritten signature in black ink, appearing to read "John J. Kim", is written over a horizontal line.

John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: January 6, 2006

This filing submitted on recycled paper.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-6762

CERTIFIED MAIL

DEC 05 2005

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Wareco Service, Inc.
Daniel Brooks
PO Box 762
Jacksonville, IL 62650

Re: LPC 0950205084 -- Knox County
Galesburg/Wareco Service, Inc.
326 Monmouth Boulevard
LUST Incident No. 982928
LUST Technical File

Post-it™ brand fax transmittal memo 7671		# of pages > 5
To: <i>Ed Rogers</i>	From: <i>DANNY</i>	
Co: <i>H02</i>	Co: <i>WARECO</i>	
Dept.	Phone #	
Fax # <i>217-523-4548</i>	Fax #	

Dear Mr. Brooks:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the High Priority Corrective Action Completion Report (report) for the above-referenced incident. The report was dated July 28, 2005 and was received by the Illinois EPA on August 10, 2005. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

Pursuant to 57.7(c)(4)(D) of the Act and 35 Ill. Adm. Code 732.409(c) and 732.503(b), the report is rejected for the reasons listed in Attachment A.

An underground storage tank system owner or operator may appeal this decision to the Illinois Pollution Control Board. Appeal rights are attached.

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5463 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62761 - (217) 782-3397 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 230

EXHIBIT

A

DEC-13-2005 13:26

94%

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DEC 13 05 13:36 FR UNITED STRATEGIES 217 245 0779 TO 12173234348 P.02

Page 2

If you have any questions or need further assistance, please contact Scott Rothering at 217-785-1858.

Sincerely,

Clifford L. Wheeler

Clifford L. Wheeler
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

CLW:SRR\982928

Attachment: Attachment A

c: Preston Engineering, Inc.
Division File

Attachment A

Re: LPC # 0950205084 -- Knox County
Galesburg/Wareco Service, Inc.
326 Monmouth Boulevard
LUST Incident No. 982928
LUST TECHNICAL FILE

Citations in this attachment are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

1. Pursuant to 35 Ill. Adm. Code 732.409(a)(2)(A), a High Priority corrective action completion report shall include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, soil borings logs, actual analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. A High Priority corrective action completion report shall demonstrate the following:
 - a. For sites submitting a Site Classification Completion Report pursuant to 35 Ill. Adm. Code 732.309 (Method One or Two):
 - i. Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the underground storage tank system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified in the groundwater investigation;
 - ii. Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the underground storage tank system are not exceeded as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;
 - iii. The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults, or other confined spaces;
 - iv. The release of petroleum does not threaten any surface water body; and
 - v. The release of petroleum does not threaten any potable water supply.

The report fails to meet the above requirements, and, therefore, the requirements of Section 57.7(c)(1)(E) of the Act, for the following reason(s):

An offsite source was not proven. To prove that contamination is moving onto the property from an off site source, specific information regarding the off site source must be provided. Included with this information should be information determining the groundwater contamination trend. This information must prove that the contamination is from an off site source.

The Corrective Action Completion Report uses Class II groundwater remediation objectives as a remediation goal. However, this must be a demonstrated and recognized. To date, Agency records do not indicate such approval has been granted.

Finally, modeling should be performed to determine the potential of migration of contamination from the offsite source.

Appeal Rights

An underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board pursuant to Sections 40 and 57.7(c)(4)(D) of the Act by filing a petition for a hearing within 35 days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed 90 days by written notice from the owner or operator and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

For information regarding the filing of an appeal, please contact:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601
312/814-3620

For information regarding the filing of an extension, please contact:

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
217/782-5544



HODGE • DWYER • ZEMAN

ATTORNEYS AT LAW

EDWARD W. DWYER
E-mail: edwyer@hdzlaw.com

January 4, 2006

VIA FACSIMILE

(Original via U.S. Mail)

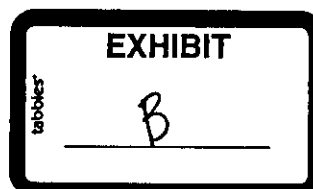
John J. Kim, Esq.
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

RECEIVED
Division of Legal Counsel
JAN 06 2006
Environmental Protection
Agency

RE: LPC #0950205084 – Knox County
Galesburg # 334/Wareco Service, Inc.
326 Monmouth Boulevard
LUST Incident No. 982928
LUST Technical File
Our File No. – WARE:001

Dear John:

On behalf of our client, Wareco Service, Inc. ("Wareco"), pursuant to Sections 40(a)(1) and 57(c)(4)(D) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/40(a)(1) 5/57(c)(4)(D)), we are requesting that the Illinois Environmental Protection Agency ("Agency") extend the 35-day period for petitioning for an appeal of the Agency's December 5, 2005, final decision ("Decision Letter") rejecting the High Priority Corrective Action Completion Report submitted for the above-referenced incident. Wareco received the Decision Letter on December 5, 2005. Wareco hereby requests an extension for a total of 90 days, or until March 5, 2006, in order to allow further discussions with the Agency regarding the technical and/or legal rationale for the Agency's rejection letter.

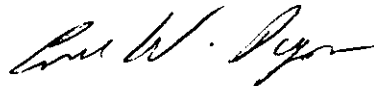


Division of Legal Counsel
January 4, 2006
Page 2

I have enclosed a copy of the Agency's Denial Letter for your review. Please contact me with any questions you may have regarding the request in this letter, and to inform me as to whether the Agency agrees to extend the time period for appeal. The deadline for filing an extension request with the Illinois Pollution Control Board is Monday January 9, 2006.

I apologize for the lateness of this request. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edward W. Dwyer", written in a cursive style.

Edward W. Dwyer

EWD:MTR:plt

enclosure

pc: Mr. Daniel J. Brooks (via U.S. Mail; w/enclosure)

WARE:001/Corr/Galesburg 334 Appeal Letter

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on January 6, 2006, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class Mail postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Edward W. Dwyer
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
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