

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **MAR 24 2003**

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

STATE OF ILLINOIS
Pollution Control Board

PCB No. 03-160

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(VIA FIRST CLASS MAIL)

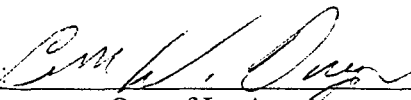
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
(VIA FIRST CLASS MAIL)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies each of an **ENTRY OF APPEARANCE OF EDWARD W. DWYER, ENTRY OF APPEARANCE OF CASSANDRA L. KARIMI and PETITION FOR REVIEW OF AGENCY DETERMINATION REGARDING AMENDED SITE CLASSIFICATION WORK PLAN BUDGET**, copies of which are herewith served upon you.

Respectfully submitted,

WARECO SERVICE, INC.,
Petitioner,

Dated: March 20, 2003

By: 
One of Its Attorneys

Edward W. Dwyer
Cassandra L. Karimi
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

THIS FILING SUBMITTED ON RECYCLED PAPER

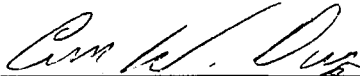
CERTIFICATE OF SERVICE

I, Edward W. Dwyer, the undersigned, certify that I have served the attached
ENTRY OF APPEARANCE OF EDWARD W. DWYER, ENTRY OF APPEARANCE
OF CASSANDRA L. KARIMI and PETITION FOR REVIEW OF AGENCY
DETERMINATION REGARDING AMENDED SITE CLASSIFICATION WORK
PLAN BUDGET upon:

Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

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

by depositing said documents in the United States Mail in Springfield, Illinois, postage
prepaid, on March 20, 2003.


Edward W. Dwyer

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

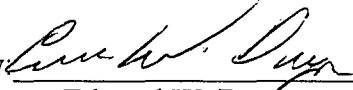
PCB No. 03-160

ENTRY OF APPEARANCE OF EDWARD W. DWYER

NOW COMES Edward W. Dwyer, of the law firm of HODGE DWYER ZEMAN, and hereby enters his appearance on behalf of Petitioner, WARECO SERVICE, INC.

Respectfully submitted,

WARECO SERVICE, INC.,
Petitioner,

By 
Edward W. Dwyer

Dated: March 20, 2003

Edward W. Dwyer
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

WARE:001/Fil/EOA2-EWD (Galesburg #224)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB No. 03-160

ENTRY OF APPEARANCE OF CASSANDRA L. KARIMI

NOW COMES Cassandra L. Karimi, of the law firm of HODGE DWYER ZEMAN, and hereby enters her appearance on behalf of Petitioner, WARECO SERVICE, INC.

Respectfully submitted,

WARECO SERVICE, INC.,
Petitioner,

By: Cassandra Karimi
Cassandra L. Karimi

Dated: March 20, 2003

Cassandra L. Karimi
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

WARE:001/Fil/EOA2-CLK (Galesburg #224)

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MAR 24 2003

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB No. 03-160

**PETITION FOR REVIEW OF AGENCY DETERMINATION
REGARDING AMENDED SITE CLASSIFICATION WORK PLAN BUDGET**

NOW COMES Petitioner, WARECO SERVICE, INC. ("Petitioner"), by and through its attorneys, HODGE DWYER ZEMAN, and pursuant to Sections 40 and 57.7(c)(4)(D) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/40 and 5/57.7(c)(4)(D)), and 35 Ill. Admin. Code Part 105, hereby requests review of the final decision by the Respondent, Illinois Environmental Protection Agency ("Agency"), regarding Petitioner's Amended Site Classification Work Plan Budget. In support of this Petition, the Petitioner states as follows:

1. Petitioner is the owner of certain property located at 1039 Grand Avenue in Galesburg, Illinois, hereinafter referred to as "the site."
2. Petitioner is the owner of underground storage tanks ("USTs") formerly located at the site.
3. On November 25, 1998, Petitioner notified the Illinois Emergency Management Agency of a release from the above-described USTs, in accordance with applicable requirements (Leaking Underground Storage Tank ("LUST") Incident No. 982927).

4. On January 23, 2003, Petitioner submitted its amended Site Classification Work Plan Budget for the above-referenced LUST incident.

5. By letter dated February 13, 2003, the Agency modified the amended Site Classification Work Plan Budget (attached hereto as Exhibit A). The letter further stated that “[A]n underground storage tank owner or operator may appeal this final decision to the Illinois Pollution Control Board . . .”

6. Petitioner is seeking review of the Agency’s February 13, 2003, determination modifying Petitioner’s amended Site Classification Work Plan Budget for the above-referenced LUST incident. The Agency’s determination regarding the above-described modifications, is arbitrary, capricious, and without statutory authority. Furthermore, the Agency is bound on review by its cited reasons for modification.

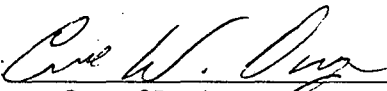
WHEREFORE, for the above and foregoing reasons, Petitioner, WARECO SERVICE, INC., respectfully requests that the Illinois Pollution Control Board grant the following relief:

1. Find that the Agency’s February 13, 2003, final decision is arbitrary and capricious, and without statutory authority;
2. Reverse the Agency’s decision modifying Petitioner’s amended Site Classification Work Plan Budget;
3. Remand this matter to the Agency with instructions to approve the amended Site Classification Work Plan Budget as submitted, as provided by the Act, but not inconsistent with the Illinois Pollution Control Board’s order;
4. Award Petitioner reasonable attorney’s fees and expenses incurred in bringing this action; and,

5. Award such further relief as deemed just and equitable in these premises.

Respectfully submitted,

WARECO SERVICE, INC.,
Petitioner,

By 
One of Its Attorneys

Dated: March 20, 2003

Edward W. Dwyer
Cassandra L. Karimi
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

WARE:001/Fil/Petition for Review02 - Galesburg (#224)



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601
ROD R. BLAGOJEVICH, GOVERNOR RENEE CIPRIANO, DIRECTOR

217782-6762

CERTIFIED MAIL

7002 2030 0002 1879 0208

FEB 13 2003

Wareco Service Inc.
Attn: James Ware
P.O. 762
Jacksonville, IL 62650

Re: LPC #0950205083--Knox County
Galesburg/Wareco Oil (Station #224)
1039 East Grand Ave.
LUST Incident No. 982927
LUST Technical File

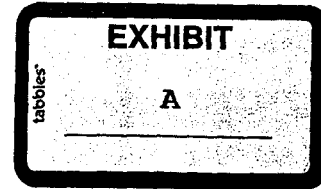
Dear Mr. Ware:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the amended Site Classification Work Plan Budget (budget) submitted for the above-referenced incident. This budget, dated January 23, 2003, was received by the Illinois EPA on January 24, 2003. Citations in this letter are from the Environmental Protection Act (Act) and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The budget is modified pursuant to 35 Ill. Adm. Code 732.305(c) or 732.312(j) and Section 57.7(a)(1) of the Act. Based on the modifications listed in Section 2 of Attachment A, the amounts listed in Section 1 of Attachment A are approved. Please note that the costs must be incurred in accordance with the approved plan. Be aware that the amount of reimbursement may be limited by Sections 57.8(e), 57.8(g), and 57.8(d) of the Act, as well as 35 Ill. Adm. Code 732.604, 732.606(s), and 732.611.

All future correspondence must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land -- #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276



ROCKFORD - 4202 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
Evan - 595 South State, Evan, IL 60123 - (847) 608-3121 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5453
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5452 • CHAMPAIGN - 2123 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4530 S. Sixth Street Rd., Springfield, IL 62706 - (217) 750-6692 • COLLINGSVILLE - 2509 Main Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 3309 W. Main St., Suite 116, Marion, IL 62958 - (618) 993-7100

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Page 2

Please submit all correspondence in duplicate and include the Re: block shown at the beginning of this letter.

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

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Steve Jones, at 217/524-1253.

Sincerely,

Hernando A. Albarracin
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

HAA: [→]SJWareco Galesburg 982927 site class bud amend.doc

Attachments: Attachment A
Appeal Rights

cc: Hodge, Dwyer and Zeman
Division File

bcc: Hernando Albarracin
Doug Oakely
Steve Jones

Attachment A

Re: LPC #0950205083--Knox County
 Galesburg/Wareco Oil (Station #224)
~~526 West Reid St.~~
 LUST Incident No. 982927
 LUST Technical File

NOTE: Citations in this attachment are from 35 Illinois Administrative Code (35 IAC) and the Environmental Protection Act.

SECTION 1

The budget was previously approved for:

\$8,690.00	Investigation Costs
\$3,380.00	Analysis Costs
\$14,450.00	Personnel Costs
\$640.00	Equipment Costs
\$780.00	Field Purchases and Other Costs
\$1,231.00	Handling Charges

As a result of the Illinois EPA's modification(s) in Section 2 of this Attachment A, the following amounts have been approved:

\$0.00	Investigation Costs
\$0.00	Analysis Costs
\$0.00	Personnel Costs
\$276.72	Equipment Costs
\$245.13	Field Purchases and Other Costs
\$226.54	Handling Charges

Therefore, the total cumulative budget is approved for:

\$8,690.00	Investigation Costs
\$3,380.00	Analysis Costs
\$14,450.00	Personnel Costs
\$916.72	Equipment Costs
\$1,025.13	Field Purchases and Other Costs
\$1,457.54	Handling Charges

SECTION 2

1. \$8,214.50 for an adjustment in personnel costs. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the

costs submitted are reasonable. Please note that the site classification budget amendment states that some personnel costs are associated with development of a Corrective Action Plan.

2. \$30.78 for an adjustment in mileage. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable.
3. \$80.72 for an adjustment in costs for Kara Company. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable. Please note that there is no documentation in the Site Classification Completion Report of the services or items provided by this firm.
4. \$1,521.25 for an adjustment in costs for TCS Engineering. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable. Please note that there is no documentation in the Site Classification Completion Report of the services or items provided by this firm.
5. \$277.28 for an adjustment in costs for Hazco Equipment and Supply Rental. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable. Please note that there is no documentation in the Site Classification Completion Report of the services or items provided by this firm.
6. \$220.00 for an adjustment in costs for IMI Analytical. The Illinois EPA has determined that these costs are not reasonable as submitted (Section 57.7(c)(4)(C) of the Act and 35 IAC Section 732.606(hh)). One of the overall goals of the financial review is to assure that costs associated with materials, activities and services are reasonable (35 IAC Section 732.505(c)). Please note that additional information and/or supporting documentation may be provided to demonstrate the costs submitted are reasonable. Please note that costs for four (4) groundwater BTEX samples were approved as part of the site classification work plan and budget that was approved by Illinois EPA on March 13, 2000. Please note that additional quarterly monitoring was not approved as part of the site classification work plan and budget that was approved by Illinois EPA on March 13, 2000.

HAA:SW Wareco Galesburg 982927 site class bud amend.doc

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

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MAR 24 2003

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SOLID WASTE AGENCY OF NORTHERN)
 COOK COUNTY,)
)
 Petitioner,)
)
 vs.)
)
 CITY OF DES PLAINES, ILLINOIS,)
)
 Respondent.)

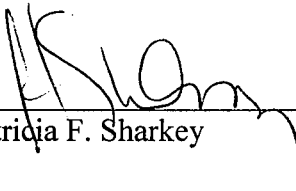
No. PCB 03- 161

(Pollution Control Facility
Siting Facility)

APPEARANCE

I, the undersigned attorney, hereby enter my appearance as counsel on behalf Petitioner, Solid Waste Agency of Northern Cook County in this matter.

Respectfully submitted,



 Patricia F. Sharkey

Patricia F. Sharkey
 Mayer, Brown, Rowe & Maw
 190 South LaSalle Street
 Chicago, IL 60603
 312-782-0600
 Attorney Registration No. 6181113