

ILLINOIS POLLUTION CONTROL BOARD
April 3, 2003

WARECO SERVICE, INC.)	
)	
Petitioner,)	
)	
v.)	PCB 03-160
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

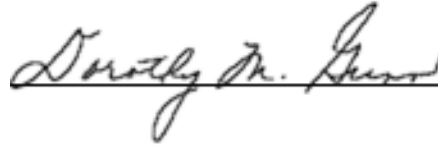
On March 24, 2003, Wareco Service, Inc. (Wareco Service) timely filed a petition asking the Board to review a February 13, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). At issue is an Agency modification of the corrective action plan budget regarding Wareco Service's leaking underground storage tank facility located at 1039 East Grand Avenue, in Galesburg, Knox County. Wareco Service appeals on the grounds that the Agency's determination is arbitrary, capricious, and without statutory authority. Wareco Service's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Wareco Service has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the decision was issued. 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 Wareco Service may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Wareco Service "may deem the permit issued." 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 22, 2003 (the 120th day after March 24, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 10, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 23, 2003, which is 30 days after Wareco Service 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 3, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board