

ILLINOIS POLLUTION CONTROL BOARD  
August 7, 2003

WARECO SERVICE, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-212
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

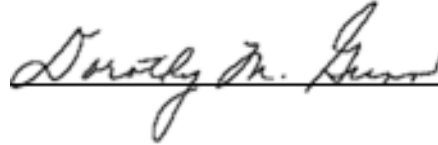
On May 15, 2002, the Board, at the parties' request, extended until August 4, 2003, the time period within which Wareco Service, Inc. (Wareco) may appeal a March 28, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On August 4, 2003, Wareco filed a petition asking the Board to review the Agency's determination. At issue is the Agency's approval of reimbursement of requested costs of corrective action, with modifications, regarding Wareco's underground storage tank site located at 1039 Grand Avenue, Galesburg, Knox County. Wareco appeals on the grounds that the Agency's decision to modify the costs was 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) (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) (2002). Currently, the decision deadline is December 2, 2003 (the 120th day after August 4, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for November 20, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by September 3, 2003, which is 30 days after Wareco 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 August 7, 2003, 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