

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1985

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-145
)
THE CELOTEX CORPORATION)
and PHILIP CAREY COMPANY,)
)
Respondents.)

INTERIM ORDER OF THE BOARD (by B. Forcade):

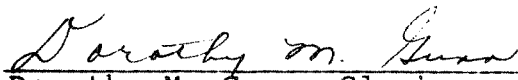
On October 22, 1985, the Illinois Environmental Protection Agency ("Agency") filed a "Joint Motion for Leave to file an Interlocutory Appeal from the Hearing Officer's Order and a Motion to Overrule a portion of the Hearing Officer's Order, dated October 7, 1985." On October 29, 1985, Celotex responded. The motion for leave to file an appeal is granted.

The Agency's motion seeks to reverse a Hearing Officer order to produce documents relating to groundwater monitoring in the vicinity of the site. None of the bases urged by the Agency for reversal are persuasive, the material seems proper for discovery and no facts relating to unnecessary burden are pleaded. Likewise, Celotex has failed to provide the Board with an adequate basis for expanding the scope of the Hearing Officer's Order. Primary relief to modify the Order should always be sought from the Hearing Officer, not the Board.

The Agency's motion is denied, the Hearing Officer's Order is affirmed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certifies that the above Order was adopted on the 7th day of November, 1985, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board