

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1984

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

ORDER OF THE BOARD (by B. Forcade):

On October 30, 1984, Celotex filed a motion seeking a Board ruling on certain motions pending before the hearing officer or in the alternative leave to appeal the hearing officer's ruling. On November 2, 1984, the Agency responded in opposition to that motion. On November 5, Celotex filed a reply and supplement to its original motion. On November 5, the Agency responded. Celotex's October 30 motion is denied.

Pursuant to 35 Ill. Adm. Code Part 103, Subparts D and F, the hearing officer has all necessary authority to rule on discovery issues. Unless a matter is referred to the Board by the hearing officer pursuant to §103.140(f), the Board will entertain interlocutory appeals from hearing officer actions on discovery motions only in unusual circumstances. Celotex presents no such circumstances.

Celotex's assertion that the Agency will respond to discovery only upon Order (Celotex Motion, ¶5), is specifically refuted by the Agency (Agency response, ¶2). The hearing officer's October 30, 1984, seven page discovery Order adequately addresses the pending Celotex motions.

The Board rejects as frivolous Celotex's request that this Board edit certain portions of the October 30 hearing officer Order to delete language which Celotex claims to be speculative and inappropriate.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 6th day of November, 1984 by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board