

ILLINOIS POLLUTION CONTROL BOARD

March 6, 1997

IRMA L. LOPEZ, JOSE MARTINEZ,)	
JOEL R. GARAY, and JOSE)	
GONZALEZ,)	
)	
Complainants,)	
)	
v.)	PCB 97-17
)	(Enforcement - RCRA)
CELOTEX CORPORTATION,)	
ALLIEDSIGNAL, INC., and)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondents.)	

ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board on the filing of a status report and renewed motion to dismiss filed by AlliedSignal, Inc. (AlliedSignal) on January 21, 1997, a pending motion to dismiss filed by the Illinois Attorney General's Office on behalf of the Illinois Environmental Protection Agency (Agency) and the People of the State of Illinois on August 5, 1996, and a pending request for stay filed by the Celotex Corporation (Celotex) on August 16, 1996.

On October 17, 1996 the Board granted complainants motion for continuance to respond to AlliedSignal's September 16, 1996 motion to dismiss the pending action against it. Complainants stated in their motion to continue that, due to the pending resolution of a similar action before the United States Environmental Protection Agency (USEPA), they might voluntarily dismiss the present action against AlliedSignal. The Board accordingly granted complainants' motion to continue and reserved ruling on all pending motions in this matter, including the Agency's August 5, 1996 motion to dismiss. The Board also directed complainants to file either a response to AlliedSignal's motion, or a status report, by December 2, 1996.

To date, the Board has not received any filings from complainants pursuant to the Board's October 17, 1996 order directing complainants to file either a response or status report by December 2, 1996. Therefore, the Board on December 19, 1996, directed complainants to (1) advise the Board in writing whether they would be appearing *pro se*, or (2) have an attorney file an appearance on their behalf and file either a response to AlliedSignal's motion to dismiss or a status report by January 21, 1997. The Board also directed AlliedSignal to file a status report concerning the

pending resolution of the similar action before the USEPA by January 21, 1997. Complainants never responded to the Board's December 19, 1996 order.

On January 21, 1997 Allied Signal filed the status report ordered by the Board. The status report indicates that AlliedSignal signed an Administrative Order on Consent for the same property at issue in the complaint before the Board. AlliedSignal further reports that the USEPA approved and signed the Administrative Order on Consent on November 1, 1996. Additionally, AlliedSignal states that it is implementing the requirements described in the Administrative Order on Consent. Based on these facts, AlliedSignal has, in addition to filing its status report, also renewed its motion to dismiss.

Because complainants have failed to comply with the Board's October 17, 1996, and December 19, 1996 orders, the Board hereby dismisses this matter without prejudice against all party respondents for want of prosecution. The Board will not rule on the pending motions to dismiss and request for stay, as these motions are mooted by this action. This docket is hereby closed.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsiderations.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board