

ILLINOIS POLLUTION CONTROL BOARD
April 8, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-168
)
)
 HAROLD D. WOODS d/b/a)
 ST. ELLEN LAND COMPANY,)
)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Board upon an Interlocutory Appeal by Complainant, wherein he contends that interrogatories propounded and documents requested by him were erroneously denied by the Hearing Officer in this case. Both parties have now filed briefs before the Board on the issue.

Upon review of the arguments presented by the parties in their Briefs, the Board finds that Complainant's contention is meritorious. Economic information is necessary to allow fair opportunity to prepare for the hearing with respect to Section 33(c) of the Environmental Protection Act as interpreted by the Appellate and Supreme Courts of the State of Illinois. Section 33(c) of the Environmental Protection Act states in pertinent part:

the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including but not limited to: ...4 the...economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source..

Rule 313(c) of the Board's Procedural Rules indicates that a party may be required to submit documents which are relevant to the subject matter of the pending case or which may lead to the discovery of such relevant information. Upon full consideration of the facts surrounding this issue the Board finds that the Agency rightfully requested information concerning the economic status of the Respondent and that the Hearing Officer erred in his total denial of such information.

However, the Board finds that the Agency's request for information in their Interrogatories 2 through 9 and request for documents 2, 3, and 4 went beyond what was necessary for the purpose intended. The Board shall therefore sustain the Hearing Officer with regard to his decision concerning Interrogatories 2 through 9 but will order Respondent to produce the documents requested by the Complainant in their Request for Documents dated November 5, 1975.

With respect to the status of this case, upon the resignation of the Hearing Officer herein, the Board hereby directs that a new Hearing Officer be assigned and orders the next hearing herein to be set within 45 days and held within 65 days of the date of this Order.

IT IS SO ORDERED.

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 8th day of April, 1976 by a vote of 40.


Christan L. Moffett, Clerk
Illinois Pollution Control Board