

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1980

ILLINOS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 79-145
)
CELOTEX CORPORATION AND PHILLIP)
CAREY COMPANY,)
)
Respondents.)

ORDER OF THE BOARD (by I. Goodman):

After careful consideration of the very large number of pleadings filed in this case thus far, the Board feels constrained to conclude that neither party is prepared to go to hearing in this matter, which hearing is scheduled for July 25, 1980. It appears to the Board that the discovery process has degenerated to bickering and uncooperative attitudes between the parties.

Since this enforcement case was filed nearly one year ago, the Clerk of the Board has docketed the following discovery-related pleadings on the dates indicated:

1. August 30, 1979 - "First Motion for Discovery, Including Interrogatories and Production of Documents" filed by Celotex Corporation (Celotex).
 - "Request For Order" (to provide discovery) filed by Celotex.
 - "Draft Order" (requiring discovery) filed by Celotex.
2. September 10, 1979 - "Response in Opposition To Request For Order and First Motion for Discovery" filed by the Illinois Environmental Protection Agency (Agency).
3. September 11, 1979 - "Celotex Reply to Agency 'Response, Etc.'" filed by Celotex.
4. September 13, 1979 - "Motion to Strike" (the Celotex response) filed by the Agency.
5. October 11, 1979 - "Complainant's Interrogatories - First Set and Request for Production of Documents" filed by the Agency.

6. October 18, 1979 - "Celotex Response to 'Complainant's Interrogatories, Etc.'" filed by Celotex.
7. October 22, 1979 - "Complainant's Answers and Objections to Respondent's First Motion for Discovery and Production of Documents" filed by the Agency.
8. November 27, 1979 - "Motion for Order of Discovery" filed by the Agency.
9. December 4, 1979 - "Celotex Opposition to 'Complainant's Motion for Order of Discovery'" filed by Celotex.
 - "Celotex Supplemental Response to 'Complainant's Interrogatories, Etc.'" filed by Celotex.
 - "Motion for Reconsideration of Hearing Officer Order Dated November 26, 1979" (relating to discovery) filed by Celotex.
10. December 5, 1979 - "Request for Reconsideration, Answers, and Motion to Extend Discovery" filed by the Agency.
11. December 13, 1979 - "Celotex Opposition to 'Complainant's Request for Reconsideration, Etc.'" filed by Celotex.
12. December 18, 1979 - "Celotex Second Set of Interrogatories" filed by Celotex.
13. March 24, 1980 - "Motion for Sanctions" filed by the Agency.
 - "Opposition to Request for Order" filed by the Agency.
 - "Complainant's Answers and Objections" filed by the Agency.
 - "Motion for Reconsideration" (of Hearing Officer Order) by the Agency.
14. March 25, 1980 - "Response to 'Complainant's Interrogatories, Etc.'" filed by Celotex.
15. March 31, 1980 - "Celotex Opposition to Motion for Sanctions" filed by Celotex.
 - "Celotex Objection To Agency 'Motion for Reconsideration'" filed by Celotex.
16. April 8, 1980 - "Motion for Reconsideration of Board Order Adopted April 3, 1980" filed by Celotex.
17. April 17, 1980 - "Further Reason In Support of Motion for Reconsideration" filed by Celotex.
18. April 18, 1980 - "Petition to Board for Immediate Special Board Meeting to Decide Celotex Motion for Reconsideration" filed by Celotex.
19. April 21, 1980 - "Response in Opposition to Motion for Reconsideration of Board Order adopted April 3, 1980" filed by the Agency.
 - "Motion for Leave to File Instanter" filed by Agency.

20. May 2, 1980 - "Celotex Objection To Agency 'Motion for Leave to File Instanter'" filed by Celotex.
 - "Respondnet's Second Set of Interrogatories and Request for Production of Documents" filed by the Agency.
21. May 5, 1980 - "Second Motion for Order of Discovery" filed by the Agency.
 - Celotex Motion of Deposition" filed by Celotex.
 - "Request for Order" filed by Celotex.
22. May 6, 1980 - "Motion for Special Finding Pursuant to Illinois Supreme Court Rule 304(a)" filed by Celotex.
 - "Celotex Motion to Set Aside Board Order Adopted May 1, 1980" filed by Celotex.
23. May 9, 1980 - "Celotex Opposition to Agency's 'Second Set of Interrogatories and Request for Production of Documents'" filed by Celotex.
24. May 12, 1980 - "Opposition To Request for Order" filed by the Agency.
 - "Celotex Opposition to Agency's 'Second Motion for Order of Discovery'" filed by Celotex.
25. May 13, 1980 - "Renewed Request for Order" filed by Celotex.
 - "Opposition to Motion to Set Aside Board Order Adopted May 1, 1980" filed by the Agency.
26. May 14, 1980 - "Opposition to Motion for Special Finding Purusant to Illinois Supreme Court Rule 304(a)" filed by the Agency.
27. May 27, 1980 - "Notice of Deposition" filed by the Agency.
 - "Motion for Leave to File Instanter" filed by the Agency.
28. June 11, 1980 - "Celotex Response to Agency's ' ... Second Set of Interrogatories and Request for Production of Documents'" filed by Celotex.
29. June 13, 1980 - "Request for Interlocutory Appeal of Hearing Officer Order and for Modification Thereof" filed by the Agency.
 - "Complainant's Supplemental Response to Respondent's Interrogatories" filed by the Agency.
 - "A Third Motion for Discovery Including Interrogatories and Production of Documents" filed by Celotex.
 - "A Motion for Order of Discovery" filed by Celotex.
 - "A Request for Order" filed by Celotex.
30. June 16, 1980 - "Celotex Objection to 'Complainant's Supplemental Response to Respondent's Interrogatories' and Motion to Bar Testimony by Expert Witnesses Named in Said Response" filed by Celotex.

31. June 20, 1980 - "A Brief in Support of Request for Interlocutory Appeal" filed by the Agency.
32. June 23, 1980 - "Complainant's Opposition to 'Request For Order' and to 'Motion for Order of Discovery' (both filed with 'Third Motion for Discovery ...') and Motion to Strike" filed by the Agency.
 - "Motion for Leave to File Instanter" filed by Agency.
33. June 24, 1980 - "Motion to Strike 'Celotex Objection to 'Complainant's Supplemental Response to Respondent's Interrogatories, and Motion to Bar Testimony by Expert Witnesses Named in Said Response'" filed by Agency.
34. July 7, 1980 - "Celotex Motion to Strike Agency 'Brief' as Premature" filed by Celotex.
 - "Celotex Opposition to Agency 'Request For Interlocutory Appeal of Hearing Officer Order and Modification Thereof'" filed by Celotex.
35. July 9, 1980 - "Celotex Response to 'Complainant's Opposition, etc.'" filed by Celotex.
 - "Celotex Motion to Strike Complaint" filed by Celotex.
 - "Celotex Opposition to Agency 'Motion to Strike, etc.'" filed by Celotex.
 - "Motion to Leave to File Instanter" filed by Celotex.

The Board hereby orders the parties to present to the Hearing Officer and to the Board within 30 days of the date of this order statements listing what discovery each party needs to obtain in order to proceed with hearing and concisely justifying the need for each request. The Hearing Officer will then develop a discovery schedule as justice demands and will set a final hearing date.

Hearing herein is continued and all motions concerning discovery now before the Board are denied.

IT IS SO ORDERED.

Mr. Werner abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 10th day of July, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board