

ILLINOIS POLLUTION CONTROL BOARD
September 11, 1986

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

ORDER OF THE BOARD (by J. Anderson):

While there are prior-filed motions pending, the Board will first consider the Agency's September 5, 1986 application for substitution of attorney, to which Celotex filed a response in Opposition on September 8. The Agency moves for leave to have Assistant Attorney General H. Alfred Ryan appear on its behalf in substitution for Assistant Attorney General James Archier, as the latter is no longer working in the Attorney General's Environmental Control Division. Celotex objects on the grounds that Mr. Ryan would be the fifth in the series and succession of attorneys who have been assigned to this case, and that each substitution has resulted in delay occasioned by that attorney's need to become familiar with the increasingly voluminous record in this proceeding.

The Board has repeatedly expressed to both parties throughout this long proceeding its desire to see this case concluded. The Board will not, however, second-guess the administrative decisions of the Office of the Attorney General, and grants the motion to substitute.

In light of this substitution, the Board will reserve ruling on Celotex' August 20 objection to the filing of the "Champaign Quality Assurance Program Documents", pending response by the Agency.

On August 20, Celotex filed a motion to overrule certain aspects of the Hearing Officer's June 30, 1986 Order implementing the Board's July 2, 1986 sanctions Order, to which the Agency filed a response in opposition on August 27. The Board will deal with only one aspect of this motion at this time, that which refers to the Hearing Officer's difficulty in interpreting the well sampling results sanction in conjunction with the groundwater sanction (Motion, p. 20-22). This was the subject of discussion at the July 31 hearing (see R. 2819-2832), and is a

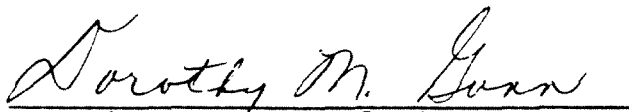
matter which the Hearing Officer wished to have the parties brief in the context of various facts of the case.

While the Board has reviewed the Order and the hearing transcript, it is still not clear to the Board what the precise nature and scope of the Hearing Officer's concerns may be. The Board requests the Hearing Officer to provide a written statement specifying the clarification sought as expeditiously as is practicable consistent with the scheduling needs and priorities of this and the other Board proceedings in the Hearing Officer's charge. The other parties may respond to this statement within the usual time for response to motions.

Ruling on the balance of the motion to overrule the sanctions implementation order is deferred. Given the voluminous nature of the materials involved, and the substitution of attorneys, the Board will entertain any timely request by the Agency for leave to supplement the August 27 response.

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 17th day of September, 1986 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board