

ILLINOIS POLLUTION CONTROL BOARD
February 8, 1990

THOMAS S. FREDETTE,)
)
 Complainant,)
)
 v.) PCB 89-61
) (Enforcement)
)
 VILLAGE OF BEECHER,)
)
)
 Respondent.)

ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board on Complainant Thomas A. Fredette's Motion for Judgement by Default filed January 16, 1990. The Complainant asks that a default be entered against the Respondent Village of Beecher due to their failure to comply with the Hearing Officer's Order of December 13, 1989. That Order concerned discovery requests made pursuant to Board rules on November 29, 1989.

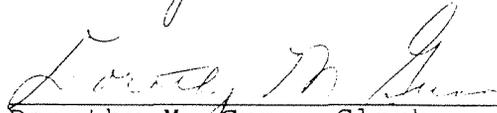
The Board notes that neither the Hearing Officer Order nor any relevant facts pertaining to the conditions of that Order are contained in or appended to the Complainant's Motion. The Board also observes that judgements by default are not favored and are avoided absent compelling reasons. Therefore, to the extent that Complainant's Motion requests relief in the form of a default for Respondent's failures to comply with the Hearing Officer's discovery order, the sparse record presented to the Board does not support such drastic relief and the motion is denied.

The Board considers a party's failure to comply with Hearing Officer Orders a serious matter. Therefore, to the extent that the Complainant wishes to refile his motion accompanied by a copy of the Hearing Officer's Order and with properly supported allegations of fact not otherwise contained in the record, leave is granted to do so. The Hearing Officer may also wish to supplement the Board record with information available solely to him which has a bearing on this matter.

IT IS SO ORDERED.

Board Member J. Anderson dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 8th day of February, 1990, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board