

ILLINOIS POLLUTION CONTROL BOARD  
February 7, 2002

VILLAGE OF PARK FOREST,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 01-77
	)	(Enforcement – Land, Water)
SEARS, ROEBUCK & CO.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by S.T. Lawton, Jr.):

This matter is currently before the Board on two motions by Sears, Roebuck & Co. (Sears) concerning the “not subject to disclosure” designation of its pleadings in this case and an objection to the hearing officer ruling on its motion to cancel or reschedule the hearing in this matter. For the reasons stated below, the Board grants the motion regarding “not subject to disclosure” designation, and reschedules the February 20, 2002 hearing to a later date to be determined by the hearing officer.

**SEARS’ MOTION REGARDING “NOT SUBJECT TO DISCLOSURE” DESIGNATION**

On January 31, 2002, Sears filed a motion regarding the “not subject to disclosure” designation of pleadings that it filed with the Board. Sears determined in its motion that, in an effort to make the distribution of pleadings in this matter less cumbersome, it obtained consent from counsel for the Village of Park Forest to remove the “Not Subject to Disclosure” designation from all past and future filings before the Board. Sears also offered to submit additional copies of any and all previous submissions if it will assist the Board or Clerk’s office.

The Board grants Sears’ motion regarding the removal of its “not subject to disclosure” designation of all past and future filings before the Board. Accordingly, the Board directs Sears to submit unmarked copies for placement in the public files.

**SEARS OBJECTION TO HEARING OFFICER RULING ON ITS MOTION TO  
CANCEL/RESCHEDULE HEARING**

Sears filed a motion on February 1, 2002, pursuant to Sections 101.502(b), 101.510 and 101.516 of the Board procedural rules (35 Ill Adm. Code 101.502(b), 101.510, 101.516), that objects to part of the January 31, 2002 hearing officer order. The order denied the request by Sears to cancel or reschedule the February 20, 2002 hearing for a later date. Sears does not object to the decision by the hearing officer to deny its written motion on grounds concerning the status of a circuit court case that involves an agreement between the parties. However, Sears argues that the hearing officer erred in denying its oral motion to reschedule or cancel the

hearing based on the possibility that the Board might not rule on its motion for summary judgment prior to the February 20, 2002 hearing date.

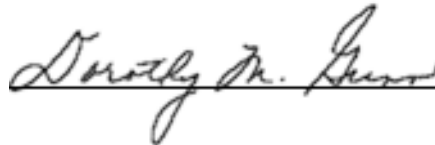
The Board finds that the hearing officer acted appropriately under the circumstances in his January 31, 2002 order. The hearing officer denied Sears' oral motion because of the uncertainty as to whether the Board would address the motion for summary judgment at today's meeting. While there is no requirement that a dispositive motion be addressed prior to hearing, in this case, the Board would like an opportunity to fully examine and address the motion for summary judgment prior to commencement of the hearing. Accordingly, the Board concludes that the hearing on February 20, 2002, should be rescheduled to a later date to be determined by the hearing officer after consultation with the parties.

### **ORDER**

The Board grants Sears' motion regarding the not subject to disclosure designation of all past and future filings before the Board, which are to be removed from under seal and extra unmarked copies disseminated to the Board. The Board also directs the hearing officer to reschedule the February 20, 2002 hearing date. The hearing officer need not delay the scheduling of the hearing until the Board rules on the summary judgment motion, so long as the hearing is rescheduled for late April or early May of 2002.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 7, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control