

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1990

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

ORDER OF THE BOARD (by J. Marlin):

This matter is before the Board on Respondent Village of Beecher's Motion to Vacate the Board's default Order of March 22, 1990. Complainant Thomas S. Fredette filed his Response to Motion to Vacate with the Board on April 2, 1990. For reasons expressed below, Respondent's Motion is denied.

The Board's Order of March 22, 1990 imposed default as the appropriate remedy for Respondent's repeated violations of discovery deadlines set forth in Hearing Officer orders in this case. Prior to imposing that sanction, the Board warned in its February 8, 1990 Order that violation of Hearing Officer orders was considered a serious matter. The Respondent now requests relief from our Order which granted the Complainant a judgment of default.

The Respondent states as grounds for relief that "due to voluminous nature of [discovery] requests" more time is needed to comply with the Hearing Officer orders. The Village of Beecher ("Village") also alleges that the Village was working toward remedying the complained-of problem and that the Village possesses a meritorious defense to the charge."

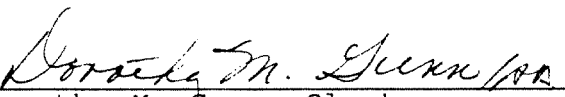
The Board outlined the history of Respondent's repeated violations of Hearing Officer discovery orders in the Board's default Order dated March 22, 1990. It will not be repeated again here. Suffice it to say that the Village's stated reasons as justification for its disregard of these Orders falls far short of the mark. If the Village needed more time, it could have requested more time at several junctions. If Fredette's requests were overly burdensome, the Hearing Officer could have fashioned relief. Without explanation, the Village chose not to respond to the orders.

The Village states in its motion that it has cooperated with the Illinois Environmental Protection Agency and has made significant remedial efforts. However, the Village's excuses fail to sway the Board. No reasonable explanation for the repeated failures to comply with Hearing Officer orders has been

given. Therefore, the Respondent's Motion to vacate the Board Order dated March 22, 1990 is denied. The Hearing Officer should proceed to schedule a hearing to take evidence on the relief requested by Petitioner as to each of his claims.

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 12th day of April, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board