

ILLINOIS POLLUTION CONTROL BOARD  
October 24, 1985

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

INTERIM ORDER OF THE BOARD (by B. Forcade):

On October 7, 1985, the Illinois Environmental Protection Agency ("Agency") filed a Motion to Overrule the Hearing Officer's Ruling Regarding Plaintiff's Exhibit Y. On October 8, 1985, the Hearing Officer filed a Memorandum Regarding Plaintiff's Exhibit Y Motion, and on October 15, 1985, the Celotex Corporation and Philip Carey Company ("Celotex") filed a response to the Agency's October 7th Motion.

The focus of this Motion concerns the Agency's attempt at the July 25, 1985, hearing to introduce into evidence (R. 1667-1671) answers to interrogatories. Celotex objected based on surprise and lack of foundation. At the October 3, 1985, hearing, the Hearing Officer refused admission.

On October 21, 1985, the Agency filed a Motion to Withdraw the Motion to Overrule the Hearing Officer. The Motion to Withdraw is granted and the Motion to Overrule the Hearing Officer is dismissed.


On October 8, 1985, the Agency filed an Emergency Motion to Overrule the Hearing Officer's Procedure for Order of Hearing. On October 15, Celotex responded and on October 22, the Agency supplemented its October 8 Motion. The Motion requests that the Board suspend the hearing until all discovery is completed.

This proceeding was filed by the Agency in 1979. The intervening six years have provided ample opportunity to diligently pursue discovery. At this late date, the Board refuses to further postpone completion of hearing. The Agency has not shown any specific harm from reserving cross examination while depositions are completed. Consequently, the Agency's Motion is denied and the Hearing Officer Order is affirmed.

On October 23, 1985, Celotex filed a "Statement" requesting the Board to await Celotex's reply before final action on any pending motions. As Celotex has already responded to the merits of the above motions, no further response is necessary. The Board will hold the Agency's October 22, 1985, motion pending Celotex's reply.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certifies that the above Order was adopted on the 24<sup>th</sup> day of October, 1985, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board