

ILLINOIS POLLUTION CONTROL BOARD  
January 24, 1985

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

ORDER OF THE BOARD (by B. Forcade):

On January 16, 1985, the Celotex Corporation and Philip Carey Company ("Celotex") filed a Motion to Board to Overrule Certain Rulings of Hearing Officer. The Illinois Environmental Protection Agency ("Agency") filed a response to Celotex's motion on January 23, 1985. Celotex's motion concerns certain rulings made by the hearing officer in his order dated January 14, 1985. Celotex requests that the Board either overrule these hearing officer rulings or, alternatively, allow an interlocutory appeal of these rulings.

Celotex seeks reversal of the "Hearing Officer's refusal to grant a modified protective order as requested by Celotex." The material in question was held to be disclosable by the Board on November 8, 1984 and affirmed on December 6, 1984. In point of fact, the hearing officer did provide for reasonable protection from disclosure in paragraphs 6-10 of his order. The hearing officer required that the disclosure of such material be limited to trial counsel for Complainant, and to a limited number of people employed by the Attorney General's office or the Agency who require access to such information for purposes of preparing for the hearing. Celotex requested that persons desiring access to the material make a written showing of a "need to know" which the hearing officer, presumably, would rule on. The hearing officer denied this request on the basis that it would be inappropriate to become involved in the internal preparation of witnesses for the hearing. The Board will affirm the hearing officer's ruling on this issue. The hearing officer has the authority, under 35 Ill. Adm. Code 103.200(c) to make "such protective orders as justice requires." The protective order in question is clearly adequate in these circumstances. Celotex's motion to overrule the hearing officer's protective order ruling is denied.

The balance of Celotex's motion concerns various discovery issues concerning the hearing officer's "refusal to require Complainant to answer certain Celotex interrogatories," his "refusal to apply Illinois Supreme Court Rule 213(d) or other such rules," and his "ruling requiring the hearing to commence prior to Celotex completing discovery." Under 35 Ill. Adm. Code 103.200(a), the hearing officer has "all powers necessary" in the area of conducting discovery and issuing discovery orders. The hearing officer has acted responsibly in moving this long delayed case to hearing. He has made adequate provisions for essential depositions during the course of hearing if necessary. Celotex's motion is hereby denied.

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 24<sup>th</sup> day of January, 1985 by a vote of 5-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board