

ILLINOIS POLLUTION CONTROL BOARD
October 25, 1984

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

ORDER OF THE BOARD (by B. Forcade):

On October 11, 1984, Celotex filed a motion to set aside a Board Order entered April 3, 1980. The Agency responded on October 18, 1984. On October 24, 1984, Celotex replied. The April 3, 1980, Order found that Celotex had failed to respond to Discovery ordered by the hearing officer and imposed the sanction of precluding Celotex from introducing evidence on those matters at hearing. Celotex sought relief from that Order on April 9, 1980 and May 6, 1980. The Board denied relief on May 1, 1980 and May 29, 1980. The October 11, 1984, motion by Celotex is the third motion to seek relief from the April 3, 1980 Order, this time four years later. The October 18, 1984, motion by Celotex is denied.

Celotex had the opportunity to provide the discovery when requested and the opportunity to provide discovery when ordered to do so by the hearing officer. Having failed to do so, this Board imposed the appropriate response, sanctions against the admission of evidence at hearing. In the more than four years that have past since then the docket sheet alone shows over eight pages of filings, and hearing must now be held by December 22, 1984. To allow inquiry into the previously closed areas of evidence would further delay this matter and may prejudice the Agency as it relied on the Board's Order limiting the scope of this matter for four years.

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 25th day of October, 1984 by a vote of 5-0.

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