

ILLINOIS POLLUTION CONTROL BOARD
June 2, 1983

DEAN FOODS,)
)
 Petitioner,)
)
 v.) PCB 81-151
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)


ORDER OF THE BOARD (by J. Anderson):

On May 17, 1983 Dean Foods moved the Board to review a) the hearing officer's April 15, 1983 Order denying Dean's motion to compel attendance of an Agency witness at deposition, and b) the hearing officer's May 13, 1983 denial of a motion to certify his April 15 Order to the Board for its interlocutory review. The Agency filed a response in opposition May 26, 1983. Dean's June 2 motion for leave to fill a reply to the Agency's response is denied.

Having reviewed the inch-thick filings in this matter, the Board finds that it would be futile to deny the motion for review pursuant to 35 Ill. Adm. Code 103.140(f), as such would be the proverbial locking of the barn door after the horse's escape. The hearing officer's April 15 denial of the motion to compel attendance of a Springfield-based witness at a second deposition in a Chicago location, and denying an additional deposition of that same engineer is sustained, as is his subsequent refusal to certify the question to the Board.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2ND day of June, 1983 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board