

ILLINOIS POLLUTION CONTROL BOARD
May 29, 1980

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

ORDER OF THE BOARD (by I. Goodman):

Celotex Corporation's May 6, 1980 Motion to Set Aside Board Order Adopted May 1, 1980 is denied.

Service of Complainant's motion and notice of motion was duly made on April 21, 1980. Pursuant to Procedural Rule 305(c), service is presumed to have been completed on or before April 25, 1980. Procedural Rule 308(c) allows Celotex 7 days from the date of service within which to respond to Complainant's motion. Because the date of service is not pleaded, Celotex' motion presents no controversy. It is possible that service on Celotex was completed on April 22, 1980. As Celotex' motion herein "goes not to the merits of the Board's grant of the Agency Motion, but to the improper procedure used by the Board" (Paragraph 6), and since Celotex' motion pleads no facts supporting an inference of irreparable harm were the Board's order not set aside (see Paragraph 8), the Board denies Celotex' motion.

Nevertheless, the Board sua sponte has reviewed its order of May 1, 1980 in light of both Complainant's motion and Respondent Celotex' objection of May 1, 1980. The Board finds the facts to be in accordance with those found on May 1, 1980 and therefore reaffirms the Order entered May 1, 1980.

Respondent Celotex is admonished to proceed expeditiously according to the Order entered May 1, 1980.

IT IS SO ORDERED.

Mr. Werner abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 24th day of May, 1980 by a vote of 3-0.

Christan L. Moffett
Christan L. Moffett,
Clerk of the Board