

ILLINOIS POLLUTION CONTROL BOARD
October 5, 1982

UNITY VENTURES,)
)
) Petitioner,)
)
) v.) PCB 80-175
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by I. Goodman):

On September 21, 1982 the Illinois Environmental Protection Agency (Agency) filed a Motion for Reconsideration of the Board's Order of September 2, 1982 in this matter. Unity Ventures (Unity) filed a Response on September 23, 1982. The motion for reconsideration is granted.

The Agency argues that the Board's Procedural Rules 314(c) should have the same interpretation and force as Illinois Supreme Court Rule 216(c), after which it is patterned. Thus, the Agency argues that it should not have to demonstrate that Unity's late filing of its Response to Request for Admissions of Facts causes prejudice or harm.

Despite the Agency's arguments, it must be recognized that this is a variance proceeding and that the Board's foremost interest is to be fully informed of the facts involved. Resolution of this matter involves more than concluding, as expeditiously as fairness will allow, a dispute between two parties. The Agency's reliance on F.J. Pechman v. Oldham is inapplicable to cases where the status of the environment is the paramount issue. The Board did not state in its Opinion that the Agency must demonstrate prejudice or harm but rather that the lack of such demonstration coupled with the perceived need by the Board for certain facts resulted in the decision under reconsideration.


Furthermore, part of this rationale in originally denying the Agency's Motion to Strike was that the hearing officer in this matter had granted Unity additional time to respond, subsequently relied on by Unity. To have stricken the Response would have contravened this reliance, undermined the discovery process, and possibly left the Board without knowledge of facts involved. The Board's holding on September 2, 1982 is reaffirmed.

The Board notes that the Interrogatories, and Requests to Produce Documents filed by the Agency on June 11, 1982 and the Request for a Witness List filed July 22, 1982 remain unanswered by Unity. On July 1, 1982 the Board denied an Agency Motion for Order assuming that the information requested would be supplied in Unity's responses to the Interrogatories and Admission of Facts.

To expedite this matter, it is hereby ordered that Unity respond to the outstanding discovery requests made by the Agency no later than October 12, 1982, and that any further discovery be completed no later than forty-five days from the date of this Order.

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 5th day of October, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board