

BEFORE THE ENVIRONMENTAL BOARD OF REVIEW

STATE OF OHIO

CECOS INTERNATIONAL, INC., ET AL. : Case Nos. EBR 132196 & 132198
: :
Appellant, : :
: :
v. : :
: :
DONALD SCHREGARDUS, DIRECTOR : :
OF ENVIRONMENTAL PROTECTION, ET AL. : :
: :
Appellee. : Issued: December 8, 1992

ORDER ON REMAND

Issued By:

THE ENVIRONMENTAL BOARD OF REVIEW
Peter A. Precario, Chairman
Julianna F. Bull, Vice-Chairwoman
Jerry Hammond, Member

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This matter comes before the Board upon the order of the Tenth District Court of Appeals for Franklin County, dated March 27, 1992 and that Court's opinion rendered on March 24, 1992, reversing and remanding this case to the Board for further proceedings. The Board notes that the Court specifically found, with respect to the "prior notice" and "prior approval" conditions imposed upon Appellant Cecos by the Director, that such conditions could be valid if properly drawn to meet their intended purpose. This Board further notes that the Court of Appeals has identified these conditions as an issue which may be addressed upon remand. Because of the technical questions involved in evaluating and structuring these conditions, the appropriate place for their reconsideration is before the Director. While the Board may very well have the authority to modify the action in question, in the circumstances presented by this appeal the Director is in the best position to evaluate the situation as a whole and make appropriate and necessary modifications.

Based upon the Order of the Franklin County Court of Appeals, this matter is hereby reversed and remanded to the Director of Environmental Protection for reconsideration of the questions of prior notice and prior approval as previously ordered by the Director and for such other and further proceedings as are necessary and in accordance with law and the Opinion and Order of the Court of Appeals.

The Board, in accordance with Section 3745.06 of the Revised Code and Ohio Administrative Code 3746-13-01, informs the parties that:

Any party adversely affected by an order of the Environmental Board of Review may appeal to the Court of Appeals of Franklin County, or, if the appeal arises from an alleged violation of a law or regulation to the court of appeals of the district in which the violation

FINAL ORDER ON REMAND

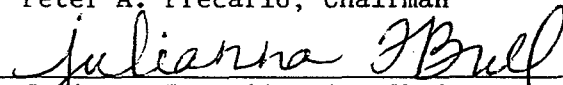
Case No. EBR 132196 & 132198

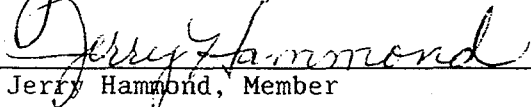
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was alleged to have occurred. Any party desiring to so appeal shall file with the Board a Notice of Appeal designating the order appealed from. A copy of such notice shall also be filed by the Appellant with the court, and a copy shall be sent by certified mail to the Director of Environmental Protection. Such notices shall be filed and mailed within thirty days after the date upon which Appellant received notice from the Board by certified mail of the making of an order appealed from. No appeal bond shall be required to make an appeal effective.


THE ENVIRONMENTAL BOARD OF REVIEW

Peter A. Precario, Chairman


Julianna F. Bull, Vice-Chairwoman


Jerry Hammond, Member

Entered in the Journal of the
Board this 8th day of
December, 1992, at Columbus, Ohio.

COPIES SENT TO:

CECOS INTERNATIONAL, INC.

(CERTIFIED MAIL)

CLERMONT COUNTY BOARD OF COMMISSIONERS

(CERTIFIED MAIL)

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ORDER ON REMAND

CASE NO. EBR 132196 & 132198

C E R T I F I C A T I O N

I hereby certify that the foregoing is a true and accurate copy of the ORDER ON REMAND in CECOS INTERNATIONAL, ET AL. v. Donald Schregardus, Director of Environmental Protection ET AL, Case No. EBR 132196 & 132198 entered in the Journal of the Board this 8th day of December, 1992.

Mary J. Oxley
Mary J. Oxley, Executive Secretary

Dated this 8th day of
December, 1992, at Columbus, Ohio.

DEC 10 1992