

ILLINOIS POLLUTION CONTROL BOARD

July 21, 2005

GRAND PIER CENTER LLC, and)	
AMERICAN INTERNATIONAL)	
SPECIALTY LINES INSURANCE CO., as)	
subrogee of Grand Pier Center LLC,)	
)	
Complainants,)	
)	
v.)	PCB 05-157
)	(Citizens Enforcement - Land)
RIVER EAST LLC, CHICAGO DOCK AND)	
CANAL TRUST, CHICAGO DOCK AND)	
CANAL COMPANY, and KERR-MCGEE)	
CHEMICAL, LLC,)	
)	
Respondents.)	

KERR-MCGEE CHEMICAL, LLC)	
)	
Cross-Complainants,)	
)	
v.)	
)	
GRAND PIER CENTER LLC, and)	
AMERICAN INTERNATIONAL)	PCB 05-157
SPECIALTY LINES INSURANCE CO., as)	(Citizens Enforcement - Land)
subrogee of Grand Pier Center LLC,)	
)	
Cross-Respondents.)	

ORDER OF THE BOARD (by G.T. Girard):

On June 13, 2005, Kerr-McGee Chemical, LLC (Kerr-McGee) filed a counter-complaint against Grand Pier Center, LLC and American International Specialty Lines Insurance Co. (complainants). Kerr-McGee alleges that complainants violated Section 21(e) of the Environmental Protection Act (Act) (415 ILCS 5/21(e) (2004)). Kerr-McGee alleges that complainants violated the Act by removing asphalt, concrete and overburden at the site located at 200 East Illinois, in Chicago, Cook County.

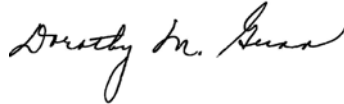
Section 31(d) of the Act (415 ILCS 5/31(d) (2004)) allows any person to file a complaint with the Board. Section 31(d) further provides that “[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing.” *Id.*; see also 35 Ill. Adm. Code 103.212(a). A complaint is duplicitous if it is “identical or substantially similar to one brought

before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicitous or frivolous. 35 Ill. Adm. Code 103.212(b). Complainants have not filed motion and there is no evidence before the Board which indicates that the cross-complaint is duplicative or frivolous.

The Board accepts the cross-complaint for hearing. *See* 415 ILCS 5/31(d) (2004); 35 Ill. Adm. Code 103.212(a). On May 19, 2005, the Board accepted the complaint for hearing. *See* 415 ILCS 5/31(d) (2004); 35 Ill. Adm. Code 103.212(a). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 21, 2005, by a vote of 5-0.

A handwritten signature in black ink, appearing to read "Dorothy M. Gunn", written in a cursive style.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board