

ILLINOIS POLLUTION CONTROL BOARD

December 21, 2006

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

TRONOX L.L.C.,)	
)	
Counter-Complainants,)	
)	
v.)	PCB 05-157
)	(Citizens Enforcement - Land)
GRAND PIER CENTER L.L.C., and)	
AMERICAN INTERNATIONAL)	
SPECIALTY LINES INSURANCE CO., as)	
subrogee of Grand Pier Center L.L.C.,)	
)	
Counter-Respondents.)	

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

On November 8, 2006, Grand Pier Center LLC and American International Specialty Lines Insurance Company (Grand Pier) filed a motion seeking an entry of a default judgment against respondents River East LLC (River East) and Chicago Dock and Canal Trust (Chicago Trust). The Board has not received a response from either respondent River East or Chicago Trust at this time.

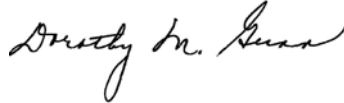
Grand Pier argues for an entry of default because River East and Chicago Trust have failed to appear at a November 2, 2006 hearing officer ordered status conference. Mot. at 2. Grand Pier argues that River East and Chicago Trust have ignored hearing officer orders and failed to secure representation. *Id.* Grand Pier asserts that despite “extraordinary efforts to procure an appearance” by the hearing officer there has been no response from River East and Chicago Trust. Grand Pier maintains that the Board’s procedural rules provide that failure of a

party to appear or proceed as ordered by the Board or hearing officer will constitute a default. Mot. at 2, citing 35 Ill. Adm. Code 101.608.

The Board agrees with Grand Pier that the Board may enter a default judgment under the Board's rules. However, in a September 20, 2006 hearing officer order, the hearing officer ordered service of all the pleadings in this case on 15 individual respondents who are River East and Chicago Trust. Since that order, the respondents have missed only one status call. Given the potential liability for respondents in this case, the Board is reluctant to enter a default judgment against River East and Chicago Trust at this time. Rather, the Board will give respondents, River East and Chicago Trust an additional opportunity to respond to the complaint. The Board will give respondents River East and Chicago Trust until January 22, 2007, to either contact the hearing officer or enter an appearance in this proceeding. If respondents River East and Chicago Trust fail to respond to today's Board order, the Board will have no choice but to rule in favor of Grand Pier on the motion for an entry of default judgment.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 7, 2006, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board