## ILLINOIS POLLUTION CONTROL BOARD January 26, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
v.	) PCB 06-175	
TRES AMIGOS PROPERTIES, LLC, an	) (Enforcement – Wate	er)
Illinois limited liability company,	)	
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On May 18, 2006, the Office of the Attorney General, on her own motion and at the request of the People of the State of Illinois (People), filed a complaint against Tres Amigos Properties, LLC (Tres Amigos Properties). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Tres Amigos Property's construction site at 3100 South Dirksen Parkway, in Springfield, Sangamon County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2004)), the Attorney General and the State's attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2004); 35 Ill Adm. Code 103. The People allege that Tres Amigos Properties violated Sections 12(b) and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(b) and (f) (2004)), and 35 Ill. Adm. Code 309.102(a) and 309.154. The People further allege that Tres Amigos Properties violated these provisions by: (1) violating its National Pollution Discharge Elimination System (NPDES) stormwater management permit; and (2) failing to obtain a sewer construction permit.

On November 3, 2006, the People and Tres Amigos Properties filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the State Journal Register on December 21, 2006. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2004); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Tres Amigos Properties' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2004)). The People and Tres

Amigos Properties have satisfied Section 103.302. Under the proposed stipulation, Tres Amigos Properties neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$5,000.

This opinion constitutes the Board's findings of fact and conclusions of law.

## **ORDER**

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Tres Amigos Properties, LLC (Tres Amigos Properties) must pay a civil penalty of \$5,000 no later than February 25, 2007, which is the 30th day after the date of this order. Tres Amigos Properties must pay the civil penalty by a certified check, money order or electronic funds payable to the Illinois Environmental Protection Agency, designated to the Environmental Protection Trust Fund. The case number, case name, and Tres Amigos Properties' social security number or federal employer identification number must be included on the method payment.
- 3. Tres Amigos Properties must submit the certified check, money order or transfer of electronic funds to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

Copies of the check, money order, or transfer of electronic funds must be sent to:

Peggy Poitevint Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, Illinois 62706

Joey Logan-Wilkey Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

5. Tres Amigos Properties must cease and desist from the alleged violations.

## IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2004); see also 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; see also 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 26, 2007, by a vote of 4-0.

Druty In. Burn

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board