ILLINOIS POLLUTION CONTROL BOARD September 7, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 06-182
KIRSEA BUILDERS, INC., an Illinois)	(Enforcement - Water)
corporation, Respondent.)	

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

On June 2, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Kirsea Builders, Inc. (Kirsea). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Kirsea's installation of sewers at a residential development known as Eagle Fair Subdivision, located at Monee, Will County. 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 Kirsea violated Section 12(b) of the Act (415 ILCS 5/12(b) (2004) and 35 Ill. Adm. Code 309.202(a) of the Board's water pollution regulations by constructing a sewer at the Eagle Fair Subdivision without the required permit.

On July 24, 2006, the People and Kirsea 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 *Monee Monitor* on August 3, 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 Kirsea's 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 Kirsea have satisfied Section 103.302. Kirsea admits the alleged violations and agrees to pay a civil penalty of \$3,200. The Board accepts the stipulation and proposed settlement.

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. Kirsea must pay a civil penalty of \$3,200 no later than October 9, 2006, which is the first business day after the 30th day after the date of this order. Kirsea must pay the civil penalty by certified check, money order or electronic transfer of funds, payable to the Environmental Protection Trust Fund. The case number, case name, and Kirsea's social security number or federal employer identification number must be included on the certified check, money order or electronic transfer of funds.
- 3. Kirsea must send the certified check, money order or electronic funds transfer 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 record of electronic funds transfer shall be sent to:

Vanessa A. Vail Assistant Attorney General Environmental Bureau 188 W. Randolph St., 20th Floor Chicago, Illinois 60601

James Day Assistant Counsel, Division of Legal 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. Kirsea 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 September 7, 2006, by a vote of 4-0.

Dorothy M. Gunn, Clerk

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Illinois Pollution Control Board