

ILLINOIS POLLUTION CONTROL BOARD
May 1, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-208
)
VILLAGE OF SPRINGERTON,)
)
Respondent.)

MS. CHRISTINE G. ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

MR. DAVID STANLEY, ATTORNEY FOR THE VILLAGE OF SPRINGERTON,
APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Werner):

This matter comes before the Board on the October 3, 1979
Complaint brought by the Illinois Environmental Protection Agency
("Agency") which alleged that the Respondent owned a public water
supply system which was operated from December 6, 1976 until
October 3, 1979 with no certified Class B or Class A water supply
operator in violation of Section 1(b) of an Act to Regulate the
Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111½,
par. 501(b), Rule 302 of Chapter 6: Public Water Supplies, and
Section 18 of the Illinois Environmental Protection Act ("Act").
A hearing was held on January 17, 1980.

The parties filed a Stipulation and Proposal for Settlement
on January 17, 1980. However, the parties were unable to agree on
a proposed penalty, and therefore presented testimony and evidence
at the hearing pertaining to the penalty issue and filed post-hearing
closing briefs which summarized their respective positions on the
appropriate amount of the penalty. In its brief, the Agency
recommended a penalty of \$800.00. On the other hand, the
Respondent contended in its brief that a nominal penalty of \$100.00
was appropriate.

The Respondent, Village of Springerton ("Village"), which
is located in White County, Illinois, is a small village with a
population of about 228 individuals. The Respondent owns and

operates a public water supply system which includes 2 drilled wells, an elevated storage tank, and a distribution system which provides water for drinking and general domestic use. (Stip 2).

On July 18, 1972, October 23, 1972, October 30, 1974, and December 6, 1974, the Agency notified the Village that its failure to employ a properly certified operator violated the Public Water Supply Act. (Stip. 3). After this repeated notification, the Village entered into a contract with Mr. Everett Taylor, a certified Class B operator, who resided in the nearby Village of Mill Shoals. (R. 18). Mr. Taylor's services to the Village began on January 20, 1975. On August 8, 1975, Mr. Taylor and the Respondent submitted a "Notification of Certified Operator in Responsible Charge" form to the Agency.

However, on December 3, 1976, Mr. Everett Taylor became terminally ill and ceased employment with the Village. (Stip. 3). Subsequently, Mr. John Smith, a certified Class C operator from Enfield, acted as operator for the Respondent's water supply system under a federal grant which expired on December 31, 1976. During this time period, Mr. Smith did not submit the requisite form to the Agency pertaining to his employment with the Village of Springerton. (Stip. 3-4).

On December 18, 1978, the Agency again notified the Village that a certified Class B or Class A water supply operator was required. On February 8, 1979, an Agency employee sent the Village a list of certified operators from White, Hamilton, and Wayne counties. (Stip. 4). On April 12, 1979, the Agency sent the Village a Notice of Violation. On April 27, 1979, another list of certified operators from nearby counties was sent to the Village by the Agency. (Stip. 5; R. 49-50). On June 18, 1979, the Agency again notified the Village of alternative ways to come into compliance. Finally, after this enforcement action was filed, Mr. Charles V. Jones, a certified Class A operator, submitted the necessary form to the Agency indicating that he will operate the Respondent's treatment plant and distribution system. (Stip. 5).

Thus, the record indicates that the Village of Springerton was without a properly certified Class A or Class B water supply operator from December of 1976 until October of 1979. At the hearing, Mr. Joseph E. Stewart, an Agency employee, testified that properly certified operators were available in the vicinity of the Village at salaries which were low enough for the Village to afford. (R. 11-14). Mr. Stewart also stated that when unsatisfactory results are noted in bacteriological analyses, a certified operator ought to take corrective action such as checking the entire system (starting with the treatment plant); determining the levels of chlorine residual (a disinfectant); and, if necessary, increasing the chlorine feed rate to try to clean the system up. (P. 14).

The second witness to testify for the Complainant was Mrs. Dorothy Bennett, an Agency employee. Mrs. Bennett stated that,

when unsatisfactory bacteriological sample results indicate the possibility of water supply contamination or waterborne diseases, a public water supplier should take immediate action (by checking the chlorine residual in the system and perhaps adjusting it upward; by looking for possible points of entry where contamination could be getting into the system; and by issuing a boil order). (R. 33-34; See: Complainant's Exhibits 1, 2, and 3).

The Village's first witness was Mr. Darrel Walker, the Mayor/President of the Village Board. On cross-examination, Mr. Walker testified that he initially had no knowledge of the notices of violation sent to the Village by the Agency and stated that when he found out about the necessity for a properly certified operator, he tried to contact various operators to see if they were available. (R. 53; R. 55-56).

The Respondent's second witness was Kathy Woodrow, the Clerk-Treasurer of the Village since October of 1978. She testified in reference to financial records that were introduced into evidence to show that the Village's Water Department had operated at a loss during recent fiscal years and that money had to be borrowed from the Village's General Fund to make up the difference. (See: Respondent's Exhibits 1, 2, and 3; R. 57-63).

The third witness to testify for the Village was Mr. Charles V. ("Vic") Jones, a sanitary inspector for a neighboring town's health department who is a certified Class A operator. Mr. Jones testified that he is currently helping the Village of Springerton out of a difficult situation by acting as their certified operator. (R. 65-66). To correct various problems (caused, in part, because the plant was built without a pre-chlorinator), Mr. Jones chlorinated the wells, flushed the lines, and cleaned the aeration system. (R. 68-70).

The Respondent's contention that only a nominal penalty of \$100.00 should be imposed is primarily based on its assertion that no Class A or Class B certified public water supply operator was available in the area at a price which the Village of Springerton could afford to pay. Conversely, the Agency argues for an \$800.00 penalty because it believes that the Village was dilatory and failed to exercise due diligence in finding a properly certified operator (i.e., the previous Mayor did not bring the problem to the attention of the Village Board Members and the present Mayor failed to contact several properly certified operators in the area even after he took steps toward compliance by contacting the Agency for names of local certified operators).

However, the paramount consideration in this case, in the viewpoint of the Board, is that, although bacteriological analysis of the water supply in the period of noncompliance often resulted in finding the water quality questionable and unsatisfactory--- which indicated the possibility of contamination and increased the risk of outbreaks of waterborne diseases---the Village did little

or nothing to rectify the situation until after the Agency filed its enforcement action. No boil order was ever issued, and apparently little was done to correct matters. From a public health and environmental standpoint, a repeat of such a situation is totally unacceptable and simply will not be tolerated. The individuals who live in the Village of Springerton have the right to expect fresh, pure, healthful water at all times, and the Village's public water supply has both the legal and moral duty to see that it fulfills its public health obligations in this regard as a top-priority. Accordingly, the Board feels that a penalty of \$400.00 is appropriate in this case.

The proposed settlement agreement provides that the Respondent admits the allegations charged in the Complaint and agrees to cease and desist from further violations. In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

The Board finds that the Respondent, Village of Springerton, has violated Section 1(b) of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111½, par. 501(b), Rule 302 of Chapter 6: Public Water Supplies, and Section 18 of the Act. The Board believes that a penalty of \$400.00 is fair and equitable under the circumstances of this case and therefore a penalty of \$400.00 is assessed against the Respondent.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

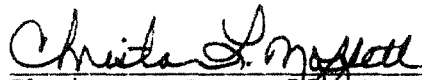
It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Village of Springerton, has violated Section 1(b) of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111½, par. 501(b), Rule 302 of Chapter 6: Public Water Supplies, and Section 18 of the Illinois Environmental Protection Act.
2. The Respondent shall cease and desist from further violations.
3. Within 120 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a stipulated penalty of \$400.00 which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed January 17, 1980, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 15th day of May, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board