

ILLINOIS POLLUTION CONTROL BOARD  
October 19, 1983

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 83-57  
 )  
ALSEY-GLASGOW WATER )  
COMMISSION, )  
 )  
Respondent. )

MS. GWENDOLYN KLINGLER, ASSISTANT ATTORNEY GENERAL, APPEARED FOR THE COMPLAINANT;

MS. KATHERINE MANN, ATTORNEY AT LAW, APPEARED FOR THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by D. Anderson):

This matter comes before the Board upon a complaint filed May 3, 1983 by the Illinois Environmental Protection Agency (Agency) naming as Respondent the Alsey-Glasgow Water Commission (Commission). The complaint alleges violation of Section 1(d) of the Certified Operators Act, Sections 18 and 19 of the Environmental Protection Act (Act) and Board rules arising out of operation of a public water supply in Scott County. A public hearing was held on July 27, 1983 at Winchester. There is no indication of public participation except by persons associated with the Commission.

The Commission is a unit of local government which operates a public water supply serving the Alsey and Glasgow areas, which have a combined population of about 350. The Commission has about 182 customers (R. 31). The system buys treated water from Roodhouse for distribution (R. 27).

The complaint alleges violation of the Act and rules by failure to have a certified operator, failure to have testing equipment and failure to take samples and submit reports. The allegations are complicated because of several changes in numbering of the public water supply rules, now codified as 35 Ill. Adm. Code 601 et seq. The following summarizes the violations alleged:

Count I, operation without a certified operator:

- 1) Section 18 of the Act from November 30, 1975 through May 3, 1983.

- 2) Section 1(d) of the Certified Operator's Act (Ill. Rev. Stat., 1981, ch. 111 1/2, par. 501 et seq.) from November 30, 1975 through May 3, 1983.
- 3) Rule 302 of Chapter 6: Public Water Supplies, from November 30, 1975 through September 13, 1982.
- 4) Section 601.103 from September 14, 1982 through May 3, 1983.

Count II, failure to have adequate testing equipment for residual chlorine:

- 1) Section 18 of the Act.
- 2) Rule 315 of Chapter 6 from October 8, 1980 through April 19, 1982. Rule 315 was codified as Section 607.105 after this date.

Count III: Failure to submit monthly operating reports to the Agency:

- 1) Section 19 of the Act from October 8, 1980 through May 3, 1983.
- 2) Rule 310(A) and (C) of Chapter 6 from October 8, 1980 through September 13, 1982.
- 3) Section 606.101 from September 14, 1982 through May 3, 1983.
- 4) Section 606.106 from September 14, 1982 through May 3, 1983.

The provisions of the Certified Operator's Act were amended effective January 1, 1982 to provide for exemption from the requirement for certain small systems. Rule 302 was amended to allow exemption at the same time it was codified as Section 603.103. On May 13, 1982 the Agency notified the Commission that its application for exemption was denied because it had four and one-half miles in its distribution system, more than the three mile maximum (Exhibit 2).

The Commission admits all of the violations alleged in the complaint. It has agreed to hire a certified operator, to acquire, maintain and use a chlorine residual test kit and to regularly submit all required reports to the Agency. There is no stipulation as to penalty (R. 6).

The Commission hired a certified operator on May 17, 1983, two weeks after the complaint was filed.

The Agency attempted to bring the Commission into compliance over a long period of time. On February 23, 1982 it agreed to suspend legal action to allow the Commission to apply for an exemption. As noted above, on May 13, 1982 the exemption was denied. On October 28, 1982 the Agency notified the Commission that it was again contemplating legal action (Ex. 3). The Commission took no action to come into compliance until May 17, 1983, two weeks after the complaint had been filed. The Agency argues that a penalty is appropriate because of the delay.

The Commission contends that it is financially unable to pay because its rates are not sufficient to cover its FHA loan and overhead (R. 24). The Commissioners serve without pay (R. 22).

Although the Board is sympathetic with the Commission's financial condition, it finds that a penalty is necessary to aid enforcement of the Act. The Board will assess a \$200 penalty. In reaching this decision the Board has considered the factors enumerated in Section 33 of the Act. This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

#### ORDER

1. The Board finds that the Respondent, Alsey-Glasgow Water Commission, has violated Sections 18 and 19 of the Environmental Protection Act, Section 1(d) of the Certified Operator's Act, Rules 302, 310(A), 310(C) and 315 of Chapter 6: Water Pollution and 35 Ill. Adm. Code 601.103, 606.101 and 606.106.
2. Respondent shall maintain a certified operator in its employ at all times as required by 35 Ill. Adm. Code 601.103.
3. Respondent shall maintain and use a chlorine residual testing kit at all times as required by Section 607.105.
4. Respondent shall submit monthly reports to the Environmental Protection Agency as required by Section 606.101.
5. Within 35 days of the date of this Order, Respondent Alsey-Glasgow Water Commission shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$200 which is to be sent to:

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

IT IS SO ORDERED.

Chairman J. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 19<sup>th</sup> day of October, 1983 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board