

ILLINOIS POLLUTION CONTROL BOARD
December 4, 1980

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 78-208
)
VILLAGE OF ORANGEVILLE, an)
Illinois Municipal Corporation.)
)
Respondent.)

JUDITH S. GOODIE APPEARED ON BEHALF OF THE COMPLAINANT.
J. MILTON BOSTIAN, VILLAGE PRESIDENT, APPEARED ON BEHALF OF
THE RESPONDENT.

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

On August 3, 1978, the Illinois Environmental Protection Agency (Agency) filed a complaint against the Village of Orangeville (Orangeville) alleging a violation of Rule 305 of Chapter 6. Public Water Supplies. On November 9, 1978, hearing was held. On August 14, 1978, Orangeville petitioned the Board for a change in Rule 305 which would have possibly exempted Orangeville from the mandatory chlorination requirement. The Board has delayed decision in the instant matter pending a resolution of the regulatory proceeding. That proceeding was dismissed by the Board on October 30, 1980, in R78-8. and Rule 305, therefore, remains in effect.

The sole question before the Board is whether Orangeville's public water supply is chlorinating the water before it enters the distribution system. That question is easily answered. A Request to Admit Facts was served upon Orangeville on August 25, 1978, but was never answered (R.11-12 and Comp.Ex.1 and 2). Therefore, under Procedural Rule 314 the facts of which admission is requested are deemed admitted. The pertinent admissions are:

2. Since before December 21, 1974, the Village has owned and operated a public water system (subject system) serving approximately 550 people.
5. The Village does not purchase water containing chlorine for use in the subject system.
6. The Village operated its public water supply system

from December 22 1975 to August 3, 1978 without chlorination of the water before it entered the distribution system. (Comp.Ex.1).

Admissions were also made at the hearing by Milton Bostian, Mayor of Orangeville. He testified that he manages Orangeville's public water supply system, and that there are no plans to continuously chlorinate (R.62-3).

Therefore, the Board finds that Orangeville has violated Rule 305.

The Board notes that much of Respondent's testimony goes to the justifications for and illegality of the mandatory chlorination requirement. The Hearing Officer correctly attempted to limit such testimony as irrelevant to an enforcement action. Such an attack is properly the subject of a regulatory proceeding or a variance proceeding if the source considers immediate compliance to impose an unreasonable hardship. Orangeville did file a Petition for Variance in PCB 76-49 on February 23, 1976. The Board dismissed it without prejudice because it failed to allege hardship or a plan for compliance. Orangeville did not pursue the variance further. A regulatory change was pursued and the issues of the justification for and legality of the mandatory chlorination requirement are thoroughly discussed in the Board's Opinion in R78-8.

Orangeville does not contend that the installation of chlorination equipment is technically impractical or prohibitively expensive, and the Board finds that it is neither. Certainly there is social and economic value to a public water supply, but that value is seriously diminished when it is not operated in a manner which best protects the health and general welfare of those serviced. Chlorination is a preventative measure which should not be ignored.

After a consideration of the factors in Section 33(c) of the Illinois Environmental Protection Act, the Board orders that Orangeville cease and desist from not complying with Rule 305. A period of six months will be set to install and operate continuous chlorination equipment. No penalty will be assessed

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

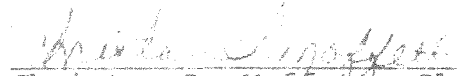
ORDER

1. The Village of Orangeville has violated Rule 305 of Chapter 6: Public Water Supplies.

2. The Village of Orangeville shall cease and desist from its failure to chlorinate its public water supply within six months from the date of this Order.
3. No penalty shall be assessed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14th day of December, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board