

ILLINOIS POLLUTION CONTROL BOARD  
March 28, 1977

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 76-315  
 )  
 VILLAGE OF LIVINGSTON, )  
 a municipal corporation, )  
 )  
 Respondent. )

Mr. Patrick J. Chesley, Assistant Attorney General, Attorney  
for Complainant  
Mr. John Chalovich, appeared on behalf of Respondent

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

This matter comes before the Board on the Complaint filed on December 9, 1976, by the Environmental Protection Agency charging that the Village of Livingston has owned and operated its public water supply from February 21, 1976 through the filing of the Complaint without a properly certified water supply operator in violation of Section 1 of an Act to Regulate the Operation of a Public Water Supply System, Ill. Rev. Stat. 1975, Ch. 111 1/2, par. 501 (Certification Statute). A hearing was held in Edwardsville on January 25, 1977.

The Village of Livingston, with a population of approximately 1000 people, owns and operates a public water supply including one well, a 100,000 gallon storage tank, and a distribution system. The well water is aerated, chlorinated, settled and filtered prior to discharge into the distribution system.

Section 1 of the Certification Statute requires any public water supply system utilizing aeration and filtration to have in its employ at least one natural person certified as competent as a Class A or B water supply operator.

On the basis of Respondent's Answer to the Request for Admission of Facts (Exh. #2) as well as the admissions made at the hearing, there can be no doubt that the violation occurred. To mitigate the violation, Respondent contended

it made every reasonable effort to comply and that the violation resulted solely from Respondent's misunderstanding regarding the certification requirements. After the resignation of their water superintendent on February 21, 1976, the Village hired an uncertified operator, Bob Martintoni, to perform the work required at the water supply. As soon as the required classes were offered, Mr. Martintoni enrolled therein so that the proper certification could be obtained. Because the Village had followed this same procedure in 1973 when it hired the operator whose resignation precipitated this entire matter (R. 35), Mr. John Chalovich, Mayor of Livingston, thought that the Village was in full compliance with the requirements.

Although the Agency mailed a Notice of Violation (Exh. #3) to the Respondent on March 5, 1976, both the Mayor and the Village Clerk, Mrs. Linda Rensing, deny that it was ever received by the Village (R. 31, 32). Mrs. Rensing did testify, however, that the Village was directed to employ a properly certified operator by Mr. Ed Kane of the Agency's Collinsville Office some 90 days prior to the filing of the Complaint herein (R. 48). The record is silent as to why Mr. Kane's directions were not followed until after the Complaint was filed.

At about the time the Complaint herein was filed, the Agency issued a press release concerning the Village's water supply which allegedly listed two methods of compliance satisfactory to the Agency, one of which was that the Village could comply by training a present employee to pass a written examination offered by the Agency (Exh. #4). With this knowledge and knowing that a Complaint had been filed, the Mayor called the Agency for explanation. He was informed that the press release was in error and that the only method of compliance was to hire a properly certified operator, a step which the Village immediately followed by hiring a properly certified operator within 10 days thereof (R. 13).

Section 23 of the Certification Statute requires the imposition of a penalty of not less than \$100.00 nor more than \$1,000.00 for each violation of Section 1 found by the Board. In consideration of the entire record in this matter and in accordance with Section 23, the Board will assess the minimum penalty of \$100.00 for the violation of Section 1 found herein. The Board notes that even though Respondent received notice of the violation some 90 days prior to the filing of the Complaint herein, Respondent delayed until after the Complaint was filed herein before initiating corrective action. The Board has also considered the effect of the Agency's erroneous press release and concludes that although this was indeed an unfortunate circumstance, absent any showing of detrimental reliance, and none was shown, this circumstance alone is of little benefit to Respondent's case.

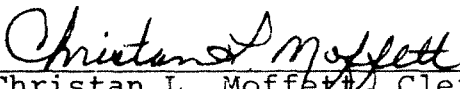
This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Village of Livingston is found to have operated its public water supply in violation of Section 1 of the Certification Statute and is assessed a penalty of \$100.00 for such violation. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of the date of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 28<sup>th</sup> day of March, 1977 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board