

ILLINOIS POLLUTION CONTROL BOARD
February 3, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 76-202
)
)
 CITY OF ATHENS,)
)
 Respondent.)

THE HONORABLE WILLIAM J. SCOTT, Attorney General, by MR. STEVEN R. WATTS, appeared on behalf of Complainant;
MR. SAMUEL R. BLANE, appeared on behalf of Respondent.

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

On July 29, 1976, the Environmental Protection Agency (Agency) filed a Complaint against the City of Athens (City) Menard County, Illinois, charging the City with violation of Section 501 of An Act to Regulate the Operating of a Public Water Supply System (Public Water Supply Act), Sections 17 and 18 of the Environmental Protection Act (Act), Rule 302 of the Board's Public Water Supply Regulations (Chapter 6), and the Technical Policy Statement. A hearing was held in this matter on November 4, 1976, at the Athens City Hall.

The City, which has a population of approximately 1120, owns and operates a public water supply system which includes two drilled wells, a reaction basin, a 60,000 gallon elevated storage tank, and a distribution system. Water from the wells is aerated, chlorinated, filtered and fluoridated before being discharged into the distribution system.

The Agency alleged in its Complaint that the City had, since at least March 22, 1976, failed to employ a certified water supply operator, as required by the Public Water Supply Act and the Board's Public Water Supply Regulations. The Agency further alleged that the City had failed to maintain its facilities such that the water would be assuredly safe in quality, clean, adequate in quantity, and

of satisfactory mineral character for ordinary domestic consumption, as required by Section 18 of the Act. Specifically, the Agency detailed several sanitary defects in the City's system, many of which are violations of the Agency's Technical Policy Statement. The Agency also alleged that from January 1, 1975, water in the City's system has been black, brown or rust color, and that from July 8-11, 1976, the City failed to provide an adequate quantity of water to its users.

Evidence produced at the hearing indicated that the City since at least March did not employ a certified Class A or B public water supply operator. The City has used the services of a Mr. James Pierceall, a certified operator, when necessary, but he is only listed with the Agency as an emergency backup operator for the City (Exhibit No. 8). Mr. Pierceall testified that he had only gone to the plant three times since February (R. 184). The City's Mayor testified that the City had since March twice hired certified operators, but both had quit after a very short period of time (R. 196, 199). The Agency testified that a list it had compiled indicated there were 22 Class B operators and 31 Class A operators in the five-county area in which the City is located (R. 135).

The City in its Admissions of Fact admits several of the deficiencies in its system alleged in the complaint, including inadequate fluoridation between January 1, 1976, and July 28, 1976, and others. Specifically, the City admits those deficiencies alleged in paragraph 11.a), e), f), g), h), i), and j) of the Complaint. The City indicates in its Admissions that it has contracted for the correction of those deficiencies which have not already been corrected (See Respondent's Exhibit No. 1). Furthermore, the Agency submitted its evaluation to the City in January, 1976, which indicates the deficiencies alleged in paragraph 11. b) and c) of the Complaint as well as the other deficiencies noted above were observed by the Agency during an inspection. The City admits that at times the water is black, brown or rust color (Admission No. 20). However, the City indicates that this discoloration occurs only after the system has been flushed, which is a normal part of the operation of the system. Finally, the City admits that on July 8-11, the quantity of water supplied to the City's residents was inadequate (Admission No. 21). The City testified that this inadequacy resulted from the failure of the automatic switch and that the City operated the switch manually for those days until an electrician could repair the switch (R. 41, 47, 71).

Several citizens testified at the hearing concerning the quality and quantity of water supplied by the City. The citizens testified that during the July 8-11 period, pressure was very low and at times there was no water at all (R. 15, 127). Several other occasions when pressure was very low were cited, and the citizens testified that low

pressure was a frequent occurrence (R. 117, 119, 127, 149, 157). Several citizens obtain bottled water or water from Springfield for drinking purposes (R. 121, 152, 164). The citizens complained that the water is often discolored or contains sand or grit (R. 6, 12, 20, 122, 133, 152). The Agency testified that during one incident when the system had been turned off in order for a new valve to be installed, samples indicated there was contaminating matter in the system for about one week (R. 102).

The Board finds that the City has violated Section 501 of the Public Water Supply Act, Rule 302 of the Public Water Supply Regulations, and Section 18 of the Act. The allegation of violation of Section 17 of the Act is dismissed in that Section 17 is merely an authorization for the adoption of regulations by the Board. Furthermore, the Board finds that the City has violated the Agency's Technical Policy Statement as alleged in the Complaint and that such violations are violations of Section 18 of the Act.

The Board has considered the factors enumerated in Section 33(c) of the Act. The Board finds that injury to the public in this case, as indicated by the citizen testimony, has been extensive. The Mayor of the City indicated that the City could afford to pay a full-time certified operator (R. 205). The purpose of requiring a certified operator is to avoid exactly the types of problems the City has faced in its supply system. No question of technical feasibility or economic reasonableness has been presented. Furthermore, the Board hereby takes official notice of its prior decision in Environmental Protection Agency v. City of Athens, PCB 76-11, in which the Board found the City to have failed to employ a properly certified operator from 1973 until January, 1976. The City has apparently ignored the Board's Order and continues in its violation, with the resulting injury to the public. The Board finds that a penalty of \$2,000 is appropriate for the extensive violations found herein. However, the Board recognizes that Athens is a small municipality and that the citizens will have to bear the expense caused by the omissions of the City's officials. Therefore, the Board will, on the condition that the City employ a properly certified operator within 45 days, suspend all but \$100.00 of the assessed penalty.

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

ORDER

It is the Order of the Pollution Control Board that:

1. The City of Athens is found to have violated Section 501

of An Act to Regulate the Operating of a Public Water Supply System, Section 18 of the Environmental Protection Act and Rule 302 of the Public Water Supply Regulations.

2. For said violations, the City of Athens is assessed a penalty of \$2,000.00. If within 45 days of the date of this Order the City has employed a properly certified public water supply operator and informed the Agency of such employment, all but \$100.00 of the assessed penalty shall be suspended. Penalty payment shall be made within 60 days of the date of this Order by certified check or money order to:

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

3. The City of Athens shall employ a properly certified public water supply operator and shall inform the Agency of such employment within 45 days of the date of this Order.

4. The City of Athens shall cease and desist all further violations.

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 3rd day of February, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board