

ILLINOIS POLLUTION CONTROL BOARD  
March 11, 1976

ENVIRONMENTAL PROTECTION AGENCY,            )  
  )  
                          Complainant,            )  
  )  
                          v.                            )        PCB 75-328  
  )  
VILLAGE OF HARVEL,                            )  
  )  
                          Respondent.            )

Mr. Steven Watts, Assistant Attorney General, Attorney for  
Complainant  
Mr. Ralph Bowden, Attorney for Respondent

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

This matter comes before the Board on a Complaint filed by the Environmental Protection Agency (Agency) on August 25, 1975, alleging various violations by the Village of Harvel (Village) in the operation of its public water supply. Hearing was held on October 17, 1975 in Hillsboro at which time a Stipulation of Parties and Proposed Settlement (Stipulation) was filed with the Board. No members of the public were present and no additional evidence was adduced at the hearing.

The Village owns and operates a public water supply facility serving approximately 270 people in Montgomery County. This facility's treatment process includes aeration, filtration, fluoridation and chlorination of the water.

In Count I of the Complaint the Agency alleged that the Village operated its supply, from September 12, 1973 until the date of the filing of the Complaint, without having in its employ a properly certified water supply operator in violation of Section 1(b) of the Operation of a Public Water Supply Act (Ill. Rev. Stat. 1973, Ch. 111 1/2, par. 501-523) (Certification Statute). Section 1(b) requires:

"Each public water supply which includes filtration, aeration and filtration, or ion exchange equipment as a part of its primary treatment shall have in its employ at least one natural person certified as competent as a Class B or Class A water supply operator."

Respondent admits that it has operated its supply from September 12, 1973 to August 25, 1975, without having in its employ a Class B or Class A operator.

In Count II of the Complaint the Agency alleged that the Village operated its public water supply without a properly certified operator from December 21, 1974 through August 25, 1975, in violation of Rule 302 of the Board's Public Water Supply Regulations (Chapter 6) and in further violation of Section 17 of the Act. Rule 302 provides that all provisions of the Certification Statute shall be met. The admission referred to in the discussion under Count I also establishes a violation of Rule 302. While the Agency alleged a Section 17 violation occurred, such is not the case. Section 17 of the Act is merely an enabling section giving the Board authority to adopt regulations governing public water supplies; therefore, any charge alleging violation of this section must be dismissed.

In Count III of the Complaint the Agency alleged the Village operated its public water supply from January of 1972 through June of 1975 without submitting monthly operating reports to the Agency in violation of Rule 310 of the Public Water Supply Regulations and in further violation of Section 19 of the Act. Rule 310, which became effective December 21, 1974, requires the submission of monthly operating reports to the Agency. Since the Village admits that it has failed to submit monthly operating reports from January 1972 through June 1975, a Rule 310 violation is established for the period from December 21, 1974 through June 1975. In addition, it was alleged that the failure to submit monthly reports also constituted a violation of Section 19 of the Act. Section 19 of the Act requires, in pertinent part:

"Owners or official custodian of public water supplies shall submit ... such reports ... as may be requested by the Agency."

To prove a violation of Section 19 it must be established that the Agency did, in fact, request the reports. Since the Stipulation did not contain any facts which would support this conclusion, the Section 19 charge must be dismissed.

The parties agree that the Village pay \$200.00 as penalty for the violations found to exist by the Board. In addition, it is noted that the Village has employed a properly certified operator to operate its public water supply.

The Stipulation of Parties and Proposed Settlement submitted by the parties is found adequate under Rule 333 of our Procedural Rules (EPA v. City of Marion, 1 PCB 591).

On the basis of the foregoing and the Stipulation, which constitutes the entire record in this matter, we find that the Village violated Section 1(b) of the Certification Statute from September 12, 1973 through August 25, 1975, violated Rule 302 of the Public Water Supply Regulations from December 21, 1974 through August 25, 1975, and violated Rule 310 of the Public Water Supply Regulations from December 21, 1974 through June 30, 1975. Section 23 of the Certification Statute requires the imposition of a penalty not less than \$100.00 nor more than \$1,000.00 for each violation of Section 1 determined by the Board to exist. A penalty of \$200.00 is assessed for these violations.

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


ORDER

1. Respondent, Village of Harvel, has operated its public water supply in violation of Section 1(b) of the Certification Statute and Rules 302 and 310 of the Public Water Supply Regulations (Chapter 6) and shall pay a penalty of \$200.00 for such violations. 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.

2. The portions of the Complaint alleging violations of Section 17 and Section 19 of the Environmental Protection Act are dismissed.

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 11<sup>th</sup> day of March, 1976 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board