

ILLINOIS POLLUTION CONTROL BOARD  
March 25, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-448  
 )  
 VILLAGE OF SIBLEY, )  
 )  
 Respondent. )

Mr. M. Barry Forman, Assistant Attorney General, appeared for complainant.  
Mr. David A. Youck appeared for respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This case comes before the Board upon a complaint filed by the Illinois Environmental Protection Agency (Agency) on November 21, 1975 against the Village of Sibley (Respondent) in Ford County, Illinois. The alleged violations are operating a public water supply without a class "A", "B", or "C" operator in violation of Section 1 of "an Act to Regulate the Operating of a Public Water Supply," Ill. Rev. Stat. Ch. 111 1/2, §501 (1973) and Rule 302 of the Board's Rules and Regulations Ch. 6, Public Water Supply and failing to submit monthly operating reports since March, 1974 in violation of Section 19 of the Environmental Protection Act and Rule 310 of the Pollution Control Board's Chapter 6: Public Water Supply Regulations. The Agency filed a Request for Admission of Facts and Genuineness of Documents on December 12, 1975. Respondents failed to respond to the request for admissions. Their failure to respond deems the matters of fact and genuineness of documents as admitted pursuant to Procedural Rule 314.

Sibley and the Agency have submitted an agreement of stipulated facts (R.10). The agreed facts are as follows. Sibley owns and operates a public water supply facility serving approximately 370 people in the village. The system consists of one drilled well, a ground storage tank, and a distribution system. The water is fluoridated prior to being pumped into storage and thence into the

distribution system. It therefore requires the services of a class "A", "B", or "C" water supply operator in accordance with Ill. Rev. Stat. Ch. 111 1/2, §501 (1973) and Rule 302 of the Board's Rules and Regulations, Ch. 6: Public Water Supply.

Sibley has failed to have at least one person certified as competent as a water supply operator on its operational staff in accordance with the aforementioned regulations, on a continuing basis since September 12, 1973 the effective date of the amendatory legislation which among other things made an Act to Regulate the Operating of a Public Water Supply enforceable before the Board. The Village of Sibley was notified of their failure to have a properly certified operator in a letter dated October 24, 1973 (R.14). Correspondence concerning the lack of a certified operator and explaining the means of obtaining one was also sent to Respondent on November 7, 1973 and March 14, 1975 (R.15).

Respondent has also failed to submit monthly operational reports as provided in Rule 310 of the Public Water Supply Regulations since March 1974 to November 1975. A request for monthly reports was sent on October 24, 1973. Notice of the continuous violations was sent on March 15, 1975. An Agency Notice of Violation for the above violations was also sent June 24, 1975.

Following the Notice of Violation, a well driller who services the Sibley water supply, Mr. Roy Taylor took the certification examination in July. However certification was not made at that time. Mr. Taylor retook the exam and passed in November 1975 and was officially certified in December 1975. With Mr. Taylor certified, Respondent has come into compliance of the regulation requiring a certified operator (R.16). Mr. Taylor now has an adequate supply of the proper forms and has indicated the forms will be filled out regularly (R.16).

There are no health hazards directly attributable to the violations alleged (R.16) and no allegations of negligence in operation (R.11). There were no citizen complaints concerning the violations (R.17).

Citizen testimony at the hearing by Fred W. Meyer, President of the Village Board, Leola K. Henry, Village Clerk, and Robert C. Rohrer, a Trustee on the Village Board

was given for consideration in mitigation of any penalty to be assessed. Mr. Meyer, the Village Board President, looks "after the pump and stuff in the pump house." (R.18). In 1971 Mr. Meyer had a C-2 certification under the previous agency. This meant he had applied to take the exam, however Mr. Meyer has never taken the exam. Mr. Meyer remembered getting some letters from the Agency (R.19). Mr. Meyer did not remember receiving any of the first three specific notices of the need for an operation (R.30,31). He did remember the last one on June 24, 1975 when "we found out we didn't have a certified man." (R.32).

The Village Clerk, Leola K. Henry, testified concerning the hiring of Roy Taylor to operate Sibley's water supply. Mr. Taylor had serviced the Sibly water supply prior to his certification. It was assumed Mr. Taylor was certified because he worked with water in his business (R.36). Mrs. Henry also stated that prior to or at the January 5, 1976 meeting the Village Board had ordered a chlorinator, a master meter for the pump house and a fluoridation kit (Respondent's Ex. 3).

Mr. Robert C. Rohrer, a Trustee on the Sibley Village Board, testified that they had hired Mr. Taylor to operate the water supply and file the proper reports. Mr. Taylor had worked for Sibley since mid-1974. Although no one actually asked him if he was certified it was assumed he was because he was looking after the water in several towns (R.50). Mr. Rohrer also indicated there was some confusion as to what forms were to be sent where (R.48,49).

The Agency made no recommendation regarding penalty and pointed out in mitigation for the Village of Sibley that no pollution or detriment to citizens' health was alleged in the complaint (R.55).

In accordance with "An Act to Regulate the Operating of a Public Water Supply," Ill. Rev. Stat. Ch. 111 1/2, §523 (1973) the Board must assess a minimum fine of \$100 for operating without a certified operator. In light of the small size of the Village of Sibley, approximately 370 people, and the fact that once full realization of the need to comply with the regulations was made, the Village did take steps to comply, a large penalty would be unwarranted. Therefore the Board finds that the Village of Sibley was in violation of Rule 302 of the Pollution Control Board's Rules and Regulations Ch. 6: Public Water Supply, Ill. Rev. Stat. Ch. 111 1/2, §501 (1973) and Rule 310 of the Board's Regulations Ch. 6: Public Water Supply and Section 19 of the Environmental Protection Act, Ill. Rev. Stat. Ch. 111 1/2 §1019 (1973). The stipulated facts are acceptable to the

Board. A penalty of \$100 is payable within 45 days of this order.


This constitutes the findings of fact and conclusions of law by the Board.

ORDER

It is the order of the Pollution Control Board that:

1. The Village of Sibley was in violation of Rule 302, Pollution Control Board's Rules and Regulations Ch. 6: Public Water Supply, Ill. Rev. Stat. Ch. 111 1/2, §501 (1973) and Rule 310 of the Board's Regulations Ch. 6: Public Water Supply and Section 19 of the Act, Ill. Rev. Stat. Ch. 111 1/2 §1019.
2. Respondent, Village of Sibley, shall pay a penalty of \$100 for the determined violations. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be within 45 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 25<sup>th</sup> day of March, 1976 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board