

ILLINOIS POLLUTION CONTROL BOARD  
August 21, 1980

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 79-116  
 )  
BECKWITH COMMUNITY ASSOCIATION, )  
INC., an Illinois not-for-profit )  
Corporation, )  
 )  
Respondent. )

MR. THOMAS R. CHIOLA, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

JACOBS, WILLIAMS AND MONTGOMERY, ATTORNEYS AT LAW (MR. BARRY L. KROLL, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.\*

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the May 31, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). This 4-count Complaint alleged that, from June, 1975 until May, 1979, the Respondent, the Beckwith Community Association, Inc., (the "Association") operated a public water supply system ("system") and failed to provide: (1) chlorination; (2) fluoridation; (3) monthly operating reports to the Agency, and (4) "as built" plans of its system to the Agency in violation of Rules 209, 305, 306, and 310 of Chapter 6: Public Water Supplies ("Chapter 6") and Section 18 of the Illinois Environmental Protection Act ("Act"). On October 11, 1979, the Respondent filed a Motion to Dismiss the Agency's Complaint and a Memorandum in Support of its Motion to Dismiss. On October 16, 1979, the Agency filed a Response to the Respondent's Motion to Dismiss the Complaint. On October 18, 1979, the Board denied the Association's Motion to Dismiss the case. A hearing was held on July 9, 1980 at which no members of the public were present. The parties also filed their Stipulation and Proposal for Settlement on July 9, 1980.

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\*Mr. Kroll, who represented the Respondent, did not appear at the hearing, but authorized the Assistant Attorney General to offer the Stipulation on behalf of the Respondent as well as the Agency. (R. 3).

The Association operates a water supply system which supplies water for drinking and general domestic use to the residents of 19 single-family homes located in the Beckwith Community of the Lincolnshire Estates Subdivision in the Village of Crete, Will County, Illinois.

Water is obtained from 2 drilled wells (which are both about 185 feet deep) and discharged, without treatment, to pressure storage tanks which supply the system. One well is operating at all times, while the other is on standby in case of breakdowns. Distribution is via 4-inch cast iron mains with 6,000 gallons of underground storage capacity in 2 pressure tanks. (See: Exhibits A through E).

The Association has indicated to the Agency that each of its members currently pays a \$65.00 annual fee as his pro rata share of the system's annual expense and that "no metering of water use or other sources of income" to the Association are part of the Respondent's operations. (Stip. 4).

On July 16, 1975, the Agency sent a letter to the Association indicating that various deficiencies existed in the operation of the Association's water supply. (See: Exhibit A). On August 12, 1975, Mr. John Sember, President of the Association, wrote a letter to the Village of Crete which requested that the Village supply it with water as an adjunct to annexation of nearby areas by the Village of Crete at that time. (See: Exhibit B, p. 2). On August 12, 1975, Mr. Sember also sent a letter to the Agency responding to the Complainant's July 16, 1975 letter. In this letter to the Agency, Mr. Sember requested a temporary variance from the requirements pertaining to fluoridation, chlorination, and master metering "due to the eventual extension of the Crete water distribution system to Lincolnshire East, a new annexation, which will include our area." (See: Exhibit B, p. 1).

On October 22, 1975, Mr. William R. Bruin, a trustee of the Village of Crete, wrote a letter to the Agency pertaining to the Association's request and noted that water service in that area would still be a few years away. (See: Exhibit C). On November 21, 1975, a meeting between Agency personnel and the President of the Association apparently resulted in a preliminary understanding pertaining to the implementation of various activities to come into compliance with the Board's Public Water Supply Regulations and the Act. (See: Exhibit D).

However, the implementation program was not carried out, and on October 20, 1978, the Agency again notified the Respondent about various appropriate corrective activities. (See: Exhibit E). The Respondent has maintained that it has acted under the belief (which was reinforced by the legal advice of its attorneys) that it was a private, rather than a public, water supply system and thus not subject to the requirements of Chapter 6 or the Act.

The record indicates that "since the original deep well turbine pump and cast iron mains were installed prior to 1941" by Mr. Sam Homan, a now-deceased real estate developer, the Association "will need to search through the records to come up with a reasonable approximation of the 'as built' plans and specifications." (See: Exhibit B, p. 1). The parties have also stipulated that the Respondent has provided a certified Class D operator to run its public water supply system during all times pertaining to this proceeding. (Stip. 4).

The proposed settlement agreement provides that the Respondent admits the allegations charged in the Complaint and agrees to cease and desist from further violations. It is stipulated that, by September 1, 1980, the Association shall: (1) provide chlorination for its system; (2) provide fluoridation; (3) begin to supply the Agency with monthly operating reports; (4) supply the Agency with the requisite "as built" drawings; (5) provide a certified Class C water supply operator, and (6) pay a stipulated penalty of \$100.00 . (Stip. 5-6).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the Beckwith Community Association, Inc., has violated Rules 209, 305, 306, and 310 of Chapter 6: Public Water Supplies and Section 18 of the Illinois Environmental Protection Act. The Respondent is ordered to cease and desist from further violations of Chapter 6 and the Act. The stipulated penalty of \$100.00 is assessed against the Beckwith Community Association, Inc.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, the Beckwith Community Association, Inc., has violated Rules 209, 305, 306, and 310 of Chapter 6: Public Water Supplies and Section 18 of the Illinois Environmental Protection Act.
2. The Respondent shall cease and desist from further violations.
3. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$100.00 which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed July 9, 1980, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 21<sup>st</sup> day of August, 1980 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board