

ILLINOIS POLLUTION CONTROL BOARD  
October 2, 1980

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 79-154
	)	
VILLAGE OF WINSLOW,	)	
an Illinois municipal	)	
corporation,	)	
	)	
Respondent.	)	

ALICE NUSBAUM KOHN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

WILLIAM J. SCHMITZ, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the August 1, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that the Respondent owned a public water supply system which was operated from September 23, 1977 until August 1, 1979 without chlorination treatment of the water before it entered the distribution system in violation of Rule 305 of Chapter 6: Public Water Supplies, and Section 18 of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that from September 23, 1977 until August 1, 1979, the Respondent operated its public water supply system without having in its employ a certified water supply operator in violation of Section 1 of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111½, par. 501 ("Public Water Supply Act"); Rule 302 of Chapter 6: Public Water Supplies; and Section 18 of the Act.

A hearing was held on January 17, 1980. The parties filed a Stipulation and Proposal for Settlement on January 18, 1980. On March 20, 1980, the Board entered an Interim Order which rejected the Stipulation and Proposal for Settlement. On April 8, 1980, the Agency filed a Motion for Reconsideration of the Interim Order. On May 1, 1980, the Board denied the Agency's Motion for Reconsideration. On September 16, 1980, the parties filed an Amended Stipulation and Proposal for Settlement.

The Village of Winslow, which has a population of approximately 400 individuals, owns and operates a public water supply system ("system") in Stephenson County, Illinois. Its water supply system, which was installed in 1916, includes one 350-foot deep artesian well, two high service pumps, and one hydropneumatic storage and distribution system. At the hearing, the Village President and Mayor, Mr. Richard A. Miller, testified that, in the past, the system's water tower was worked on and cleaned out once a year, and, at that time, the water was chlorinated. (R. 13). Mr. Miller indicated that the Village has now spent about \$1500.00 to set up chlorination equipment and that they are currently waiting for a plumber to hook-up the pipes into the system. (R. 12).

Mr. Miller signed the stipulation on behalf of the Village. Nevertheless, at the hearing, Mr. Miller outlined many reasons why he felt that the agreed-upon measures would be financially burdensome. (R. 11-14; R. 15-16). In essence, Mr. Miller indicated that because of the Village's poor financial condition and the large debt load incurred for a recently installed sewerage system, he felt that the originally agreed-upon stipulated penalty of \$500.00 was quite high.

Accordingly, after the Board rejected the original settlement proposal, the subsequent Amended Stipulation and Proposal for Settlement provides for a lower stipulated penalty of \$275.00 (to be paid in two equal installments). (Stip. 6).

It is stipulated that Agency inspections on December 13, 1976 and September 23, 1977 revealed that compliance problems existed. (Stip. 2). The Agency subsequently sent four letters to the Village informing them that they would need to chlorinate their water and employ a certified operator. (Stip. 2; See: Exhibits A, B, C, and D).

On November 5, 1977, the Respondent's attorney sent a letter to the Agency on behalf of the Village which indicated that the Respondent was actively seeking to hire a certified operator and was planning to install chlorination equipment. (Stip. 3; See: Exhibit F).

On October 13, 1978, the Agency sent the Respondent a formal Notice of Violation. (Stip. 2-3; See: Exhibit E). On October 20, 1978, the Village attorney sent a letter to the Agency on behalf of the Respondent which indicated that a Village employee was currently training for the certification test. (Stip. 3; See: Exhibit G). However, this letter also indicated that the Village Board did not feel the residents of the Village were in favor of chlorination and requested a public meeting "to explore the whole situation." (Exhibit G). A negotiated settlement was subsequently entered into by both parties.

The proposed settlement agreement includes a detailed compliance program and schedule which provides that the Respondent admits the

violations alleged in the Complaint and agrees to: (1) install the appropriate chlorination equipment; (2) employ a properly certified operator; (3) make arrangements to have a certified relief operator available; and (4) pay a stipulated penalty of \$275.00 (in two installments of \$137.50 each). (Stip. 4-6).

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 that the Respondent, the Village of Winslow, has violated Section 1 of the Public Water Supply Act; Rules 302 and 305 of Chapter 6: Public Water Supplies; and Section 18 of the Illinois Environmental Protection Act. The stipulated penalty of \$275.00 (payable in two installments) is assessed against the Respondent.

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 Village of Winslow, has violated Section 1 of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111½, par. 501; Rules 302 and 305 of Chapter 6: Public Water Supplies; and Section 18 of the Illinois Environmental Protection Act.

2. The Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$275.00 in two equal installments of \$137.50 each. The first installment of \$137.50 shall be paid within 30 days of the date of this Order, while the second installment shall be paid within 180 days of the date of this Order. All payments shall be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Amended Stipulation and Proposal for Settlement filed September 16, 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 2<sup>ND</sup> day of October, 1980 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board