

ILLINOIS POLLUTION CONTROL BOARD
January 14, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
v.) PCB 75-120
)
WALTER A. LARSEN, et al,)
Respondent.)

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

This matter comes before the Pollution Control Board (Board) upon the Third Amended Complaint filed by the Environmental Protection Agency (Agency) on August 25, 1975 against certain property owners in the Arden Shore Estates subdivision, Shields Township, Lake County, Illinois. The three-count complaint charges Respondents with operating a public water supply in such a manner as to violate Sections 18 and 19 of the Environmental Protection Act (Act) and Section 23 of An Act to Regulate the Operating of a Public Water Supply [as amended, effective September 12, 1973].

Hearings on this matter were held on September 12, 1975 and November 21, 1975 in Waukegan, Illinois. At the November 21 hearing a Stipulation and Proposal for Settlement (Stipulation) representing the final agreement of the parties was entered into evidence. No additional evidence was presented.

Between 50 and 60 persons live in homes served by the Arden Shore Estates public water supply system. The Stipulated Background Facts indicate that on the lot owned by Respondent Walter A. Larsen is a drilled well, a one-thousand gallon underground hydro-pneumatic storage tank, and part of the distribution pipes for the Arden Shore Estates public water supply system. The well, tank and lot owned by Respondent Larsen have an approximate value of \$7,500. Respondents James Laduke, Albert Anderson, Donald G. Miller, Carl Gross, Anthony Moore, deceased, by Mrs. Anthony Moore, his widow, Ralph Morris, Olis Mink, William Staben, Henry Solterbeck, Donald Bergsrud, Theresa Wysocky, T. Hunter, Carl Parker, D.G. Willis, Walter Bieger, Leonard R. Robinson, William McGovern, Alfred Lohse, Ardis Griffiths, and Richard H. and Jean A. Markowski (hereinafter "Homeowners") are owners of the part of the water distribution system running

through their property. Respondent Walter A. Larsen paid for the well, the tank, and the distribution system and permitted the homeowners, or their predecessors in interest, to connect to the public water supply system under a water agreement that provided that the homeowners be responsible for operating and maintaining the system.

Respondent Arden Shores Civic Improvement Association is a temporarily inactive unincorporated association whose functions include serving as the vehicle for paying electrical and maintenance costs of the public water system. The Association and/or the residential owners own the pump for the water supply system. Respondent Larsen allowed installation of the pump, a replacement, and signed an agreement with the Association on August 17, 1964 disclaiming any property rights in the pump. Respondent Elaine Weborg is a former homeowner who moved from the Arden Shore Estates subdivision approximately four years ago. Respondents Richard and Jean Markowski acquired title, subject to notice of this proceeding, to one of the homes served by the well in July, 1975.

Respondents have owned, operated and maintained said public water supply system since July 1, 1970. Since that time, the pump casing of the public water supply has been less than 18 inches above the ground level in violation of Rule 3.12 of the Public Water Supply System Rules and Regulations (Regulations) and Section 3.2.3.14(a) and (b) of the Recommended Standards for Waterworks in violation of Section 18 of the Act. The public water supply has been operated in such a manner as to distribute water with a pressurized storage volume of less than 35 gallons per capita per day, a violation since July, 1974, of Rule 3.30 of the Regulations and in violation of Rule 212 of the Public Water Supply Regulations (Chapter 6) in further violation of Section 18 of the Act. The parties agree that it will cost between \$250 and \$500 to raise the well casing and will cost a maximum of \$5,000 for an additional hydro-pneumatic storage tank with a one-thousand gallon capacity.

The parties stipulate to two further violations. From July 1, 1970 until the filing of the Complaint, Respondents failed to employ a certified water supply operator, in violation of Section 1 of an Act to Regulate the Operating of a Public Water Supply. Furthermore, during several periods between December, 1970 and December, 1974 Respondents failed to submit water samples as requested by the Agency, in violation of Section 19 of the Act.

The Stipulation indicates that the Agency sent letters on November 20, 1970 and August 14, 1972 to Norman Green, then Water Manager for the Association, notifying him of deficiencies in the structure and operation of the public water supply. On November 1, 1972, Respondent Larsen was also notified of the deficiencies. A controversy arose between Respondent Larsen and the Homeowners as to who should bear the responsibility for correcting the deficiencies. Although joint meetings between Larsen's attorney, the Homeowners and Agency representatives were held on January 11, 1973 and February 18, 1973, no agreement was reached.

Since the filing of the Complaint, the Respondents have entered into negotiations with the Lake County Department of Public Works for taking over the public water supply system. On September 8, 1975, the Department of Public Works recommended to the Lake County Board of Commissioners' public service committee that the county take over the system. The public service committee has approved the acquisition, and the committee's recommendation will be presented to the Lake County Board as soon as escrow deposits have been made by the Homeowners.

In the Proposal for Settlement, the parties agreed:

A. That, in order to facilitate the Lake County Department of Public Works' acquisition of the public water supply system,

1. Respondent Walter Larsen shall, upon request by duly-authorized county officials, donate the well, tank and fee simple title to the well lot, unless a lesser interest in land is agreed to by the county.

2. Respondent Homeowners shall donate to the County \$6,000 to make needed improvements to the Arden Shore Estates public water system, all Respondents to share the cost equally. The needed improvements to be covered by the \$6,000 include installation of a 1,000 gallon hydro-pneumatic storage tank and raising the well casing. Each Homeowner shall deposit his or her share of the \$6,000 in an escrow account established by the County for that purpose within 30 days of this Opinion and Order.

3. Arden Shores Civic Improvement Association, through its officers, shall deed to the county all right, title and interest in the well pump.

4. Respondent Homeowners shall deed to the county all right, title and interest to the distribution pipes running through their property plus any easements required by the county thereby.

B. Respondent Homewoners shall, within 30 days of this Opinion and Order either have someone among them secure certification, or hire a properly certified water supply operator to operate the system until the county acquires the system.

C. Beginning with the date of signing of the Stipulation, Respondent Homeowners shall supply water samples requested by the Agency.

D. Respondents Walter Larsen, James Laduke, Albert Anderson, Donald G. Miller, Carl Gross, Anthony Moore, deceased, by Mrs. Anthony Moore, his widow, Ralph Morris, Olis Mink, William Staben, Henry Solterbeck, Donald Bergsrud, Theresa Wysocky, T. Hunter, Carl Parker, D.G. Willis, Walter Bieger, Leonard R. Robinson, William McGovern, Alfred Lohse, and Ardis Griffiths, agree that each of them will pay \$10 as a civil penalty for the violations alleged.

E. The Complaint as to Respondent Elaine Weborg shall be dismissed with prejudice.

F. That if the Respondents affected take the actions agreed to under Paragraph A, the Agency will not subject these Respondents to any further enforcement proceeding as to the violations alleged in Count I, during the time reasonably required to make the needed improvements to the system.

The Board finds that Respondents have owned, operated and maintained a public water supply system which violates Sections 18 and 19 of the Act and Section I of An Act to Regulate the Operating of a Public Water Supply. For said violations, the Board assesses the stipulated penalty of \$10.00 per person against Respondents Walter A. Larsen, James Laduke, Albert Anderson, Donald G. Miller, Carl Gross, Anthony Moore, deceased, by Mrs. Anthony Moore, his widow, Ralph Morris, Olis Mink, William Staben, Henry Solterbeck,

Donald Bergsrud, Theresa Wysocky, T. Hunter, Carl Parker, D.G. Willis, Walter Bieger, Leonard R. Robinson, William McGovern, Alfred Lohse, and Ardis Griffiths. The Board dismisses the Complaint as to Respondent Elaine Weborg, with prejudice. Finally, the Board accepts the Stipulation submitted by the parties as an adequate plan of compliance.

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. Respondents Walter A. Larsen, et al are found to have owned, operated and maintained a public water supply system in violation of Sections 18 and 19 of the Act and Section 1 of An Act to Regulate the operating of a Public Water Supply.

2. Said Respondents shall comply with all of the terms of the Stipulation and Proposal for Settlement submitted by the parties on November 21, 1975.

3. Respondents Walter A. Larsen, James Laduke, Albert Anderson, Donald G. Miller, Carl Gross, Anthony Moore, deceased, by Mrs. Anthony Moore, his widow, Ralph Morris, Olis Mink, William Staben, Henry Solterbeck, Donald Bergsrud, Theresa Wysocky, T. Hunter, Carl Parker, D.G. Willis, Walter Bieger, Leonard Robinson, William McGovern, Alfred Lohse, and Ardis Griffiths, shall within 30 days pay a penalty of \$10.00 each for the violations found herein. Penalty payment shall be made by certified check or money order to:

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

4. The Complaint as to Respondent Elaine Weborg is dismissed with prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of January, 1976 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board