

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1975

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
)
v.) PCB 74-215
)
LOUIS ROKIS,)
Respondent.)

Ms. Dorothy J. Howell, attorney for Complainant.
Mr. Layne McGehee, attorney for Respondent.

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

In our interim Opinion and Order of May 8, 1975, in this proceeding, the Illinois Pollution Control Board (Board) retained jurisdiction of this enforcement proceeding and gave the parties and affected persons seventy-five (75) days to submit a compliance plan to mitigate a possible penalty in this action. A meeting of the parties attended by homeowners from the subdivisions occurred on June 12, 1975. On July 21, 1975, the Complainant filed with the Board a Motion for Extension of Time in which to File Parties' Response to Board Order of May 8, 1975. This was granted on July 24 and Respondent was given until August 6, 1975 to file his proposal for compliance.

On August 6, 1975, Respondent filed his proposal with the Board. In pertinent part the proposal stated:

WELL NUMBER 3

The Respondent, Louis Rokis, proposes to convey by appropriate instrument of conveyance the entire water system formerly used in supplying water to the users of Well Number 3 to a not-for-profit corporation called the Cottonwood Lane Corporation, such conveyance to include any residual interest of the Respondent in the land on which the existing well is now located. In addition, the Respondent proposes to fund the operating account of the not-for-profit corporation by a contribution of \$700.00. Any sums which may have been due from the users of water from Well Number 3 under a Certificate of Public Convenience and Necessity issued by the Illinois Commerce Commission shall be waived. This proposal being made with the full knowledge, consent and approval of the owners of the lots now served by Well Number 3.

WELL NUMBER 2

Gerald Stanton, the owner of Well Number 2, who is not made a party to these proceedings, ceased during the pendency of these proceedings, supplying water to the remaining users formerly receiving water from Well Number 2, by shutting off the valves to the water distribution system and converting said well to his own use exclusively. Each of the remaining four homes formerly supplied with water from Well Number 2 now have their own independent water supply systems. The Respondent proposes to make a payment of \$300.00 to each of the persons constructing such independent water systems. It is expected that this \$300.00 contribution would substantially reimburse each family for their outlay in constructing their private water system.

On August 20, 1975, the Complainant filed a separate proposal for compliance on which it concurred in Respondent's Proposal but suggested additional sums to safeguard the interests of the subdivision citizens. In this proposal, Complainant suggested a total funding of \$3000 for Well Number 3 for the purposes of raising the well casing of the existing well and of installing a larger pressure storage tank, since this well may no longer constitute any part in the public water supply and the jurisdiction of the Environmental Protection Agency may no longer attach. In addition, Complainant recommends Respondent pay to the persons formerly served by Well No. 2 or to the operating account of such association as they may form, a total of \$4,800 which sum is to be applied to the expense incurred in developing a new supply system pursuant to written contract and to grant by deed or easement access to such land as may be required for the recommended well to the persons formerly served by Well No. 2 or to said association formed by them pursuant to written contract.

Complainant also recommended that Respondent pay a penalty of \$1000.00 because a substantial penalty was warranted.

On August 27, 1975, Respondent filed a response to the Complainants proposal and stated that the proposed cash contributions not only exceed the demands of the affected residents, but exceed the financial ability of the Respondent. Respondent also claims that the proposals previously submitted by Respondent, with only minor exceptions, coincided with the desires and requests of the affected residents.

Looking to Section 33(c) of the Act, we find that the character of the problem and the degree of interference with the protection of the health and general welfare of neighborhood citizens has been of long-standing and serious nature. The importance of a profitable water source means that adequate safeguards must be taken to assure the necessary quantity and quality of the water. The value of the pollution source is reduced when not properly operated. Finally it is technically practical to maintain a clean and adequate water supply. While the cost might be significant in terms of the financial status of Respondent, clean water is a cost of doing business and Respondent should not have undertaken operations at its subdivision unless it was financially prepared to supply a service vital to its residents.

Additional factors in the record convince us, however, that a large penalty is not justified in this case. Respondent has volunteered to spend over \$1000 and to deed certain property to the affected citizens in order to bring about a solution to the problem. The financial position of Respondent convinces us that a large penalty would not serve the purposes of the Act.

In addition, the Board is convinced that any moneys expended by the Respondent in this matter are better spent on the proposed water systems than on a penalty for past transgressions.

The Board therefore accepts Respondents proposed proposal for compliance as set forth herein, and in addition assesses a penalty of \$500 for Respondent's violation of Section 18 of the Act and certain Rules of Chapter 6, and Section 1 of both Act to Regulate the Operating of a Public Water Supply from July 1, 1970, until June 7, 1974 as found in our Order of May 8, 1975.

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

ORDER

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

1. Respondent Louis Rokis, pursuant to his proposal for compliance as filed before this Board August 6, 1975, said proposal being included herewith by reference as if more fully set forth herein, shall convey the entire water system formerly used in supplying water to the users of Well No. 3 to a not-for-profit corporation called the Cottonwood

Lane Corporation and shall fund the operating account of said corporation by a contribution of \$700, and shall make payment of \$300 to each of the four persons formerly supplied with water from Well No. 2 who have constructed independent water systems; and

2. Pursuant to the violations as found in our Order of May 8, 1975, Respondent Louis Rokis is assessed a penalty of \$500. Said penalty to be paid within 35 days of the date of this Order, by certified check or money order to:

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

3. Within 30 days of the adoption of this Order, the Respondent shall execute and forward to both the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 and the Pollution Control Board a Certification of Acceptance and agreement to be bound to all terms and conditions of this Order. The form of said certification shall be as follows:

CERTIFICATION

I (We), _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 74-215 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

Signed _____

Title _____

Date _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18th day of September, 1975 by a vote of 4-0.

Christan L. Moffett (g)
Christan L. Moffett, Clerk
Illinois Pollution Control Board