

ILLINOIS POLLUTION CONTROL BOARD
November 2, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-187
)
BIRDS PINKSTAFF PUBLIC)
WATER DISTRICT, a public)
corporation,)
)
Respondent.)

MR. JOHN VAN VRANKEN, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

GOSNELL, BENECKI, BORDEN & ENLOW, ATTORNEYS AT LAW (MR. JOHN F.
BORDEN, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 21, 1978
Complaint brought by the Illinois Environmental Protection Agency
("Agency") alleging that the Respondent, Birds Pinkstaff Public
Water District ("Pinkstaff"), owned a public water supply system
which was operated from September 12, 1973* until July 21, 1978
with no certified Class B or Class A water supply operator in
violation of Section 1 of an Act to Regulate the Operating of a
Public Water Supply, Ill. Rev. Stat. 1975,* ch. 111-1/2, par. 501.
A hearing was held on September 25, 1978. The parties filed a
Stipulation and Proposal for Settlement on September 27, 1978.

The stipulated facts indicate that the Respondent is a public
corporation which owns and operates a public water supply located
in Lawrence County, Illinois. This facility includes one drilled
well, a distribution system, a 40,000 gallon storage tank and a
high service pump. The water treatment employed by Pinkstaff
includes aeration, filtration, fluoridation, and chlorination.
(Stipulation, p. 2).

*The Stipulation and Proposal for Settlement (i.e., Joint Exhibit
No. 1) changed the date in question from September 12, 1973 to
September 12, 1976 and also changed the relevant statutory citation
from Ill. Rev. Stat. 1975, ch. 111-1/2, par. 501 to Ill. Rev. Stat.
1977, ch. 111-1/2, par. 501(b). (See: Stipulation, p.2; Record, p.5).

The Agency had notified the Respondent on several occasions, both orally and in writing, that it was required to have a properly certified operator. (Stipulation, p. 3). Soon after the filing of the Complaint, Pinkstaff did retain a properly certified Class B operator. (Stipulation, p. 3). The Complainant has received no citizen complaints concerning this matter. (Stipulation, p. 3).

It is stipulated that from September 12, 1976 until September 27, 1978, the Respondent did not have in its employ a Class B or Class A certified operator, and was therefore in violation of Section 1(b) of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111-1/2, par. 501(b). (Stipulation, p. 2). The parties have proposed that the Board impose the minimum penalty established by the statute, Ill. Rev. Stat. 1977, ch. 111-1/2, par. 523, of \$100.00 against the Respondent. (Stipulation, p. 3).

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 Illinois Environmental Protection Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974). On the basis of the record, the Board finds that the Birds Pinkstaff Public Water District operated its public water supply system without a properly certified Class B or Class A operator from September 12, 1976 until September 27, 1978 in violation of Section 1(b) of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1977, ch. 111-1/2, par. 501(b). Accordingly, the stipulated penalty of \$100.00 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 Birds Pinkstaff Public Water District has violated Section 1(b) of an Act to Regulate the Operating of a Public Water Supply (Ill. Rev. Stat., 1977, ch. 111-1/2, par. 501(b)) from September 12, 1976 until September 27, 1978.