

ILLINOIS POLLUTION CONTROL BOARD

March 6, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-217
)
DONALD WATSON,)
)
Respondent.)

MS. CHRISTINE G. ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. RAY L. FEHRENBACHER, FEHRENBACHER & FLEMING, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed on October 18, 1979 by the Environmental Protection Agency (Agency). The complaint alleges that: Respondent is part owner and operator of a public water supply and has operated that supply without a certified Class A, B or C operator in violation of Section 1 of "An Act to Regulate the Operating of a Public Water Supply" (PWS Act), Rule 302 of Chapter 6: Public Water Supplies (Chapter 6) and Section 18 of the Environmental Protection Act (Act); Respondent failed to submit monthly operating reports in violation of Section 19 of the Act and Rule 310(A) of Chapter 6; Respondent failed to provide dependable chlorine feed equipment in violation of Rule 305 of Chapter 6 and Section 18 of the Act; and Respondent failed to provide equipment to adjust and maintain a fluoride ion concentration of between 0.9 mg/l and 1.2 mg/l in violation of Rule 306 of Chapter 6. A hearing was held on January 11, 1980. At the hearing a stipulated settlement was presented for Board approval. The parties could not reach an agreement on the penalty and consequently stipulated to aggravating and mitigating factors for the Board's consideration.

The stipulation provides the following facts. Donald Watson is part owner of a public water supply located near Olney in the Watergate Subdivision in Richland County. It consists of one drilled well, an underground clearwell and a distribution system to furnish water for general domestic use to seventeen units. Eventually service is to be provided to thirty-five units.

The Watergate Public Water Supply is now a partnership with George Shipley, Mike Doll, and Gavin Doll. By contract with the residents of the subdivision the supply will be owned in trust and operated by the residents of the subdivision when the thirty-five lots comprising Watergate Subdivision are developed. The supply utilizes chemical feeding only through the use of a chlorine feed pump as part of the primary treatment. Thus at least one natural person certified as competent as a Class A, B or C water supply operator is required. Notice of the need for a certified operator was given to Respondent on several occasions from October 22, 1975 through November 16, 1978. Respondent was negotiating in March 1976 with a certified operator; however, this arrangement was never completed. As of December 21, 1979 Respondent has hired a properly certified operator.

Respondent asserts that certified operators are unavailable in the area and that on three occasions Watergate Subdivision's offer of \$50 monthly was rejected. Complainant asserts that on December 14, 1979 in Richland County and seven surrounding counties there were forty-nine Certified Public Water Supply Operators. Respondent lists average monthly operating costs of the supply as approximately \$125 to \$130 while its average income is \$117.30. The costs do not include any repairs or replacement of equipment.

Feed equipment for fluoride solution was purchased in 1973. This equipment was not placed in operation until the summer of 1976, at which time it was utilized as chlorine feed equipment with the assistance of Michael Battaglia of the Agency during an operational visit. After installation the chemical feed equipment failed on several occasions in part because parts had corroded during storage and in part because of iron which precipitated when the water was mixed with the chlorine solution.

A monthly bacteriological sample collected June 7, 1976 showed bacteriological contamination in the form of coliform bacteria (positive confirmed). As a result it was necessary to increase the chlorine application rate in an effort to obtain a free residual chlorine level of 0.4 to 0.6 mg/l throughout the distribution system. This was done by manual addition of the chlorine.

Since the original fluoride feed equipment was used for a chlorine feed, Respondent purchased in December 1979 a fluoride feed pump costing \$387.45. A test kit cost \$64 and chemicals \$32. Complainant notes these costs should have been part of the operating costs since 1974.

In settlement Respondent admits the violations alleged and agrees to cease and desist. Complainant requests a penalty of \$750. Respondent requests a penalty of \$100, the minimum under the PWS Act.

The Board finds the stipulated settlement acceptable under Procedural Rule 331. Respondent is found in violation as alleged in each count. In considering the factors set forth in Section 33(c) of the Act the Board observes that the injury was not great but the existence of bacteriological contaminants could have caused great injury if not properly treated. Prevention of sickness and disease is the reason for requiring the proper equipment and a certified operator. A properly run water supply is of social and economic value. The location of the water supply is not in issue. Technically and economically it was possible for Respondent to comply. Respondent has had several notices of the deficiencies of operation and has been dilatory. Respondent's income and expenses are tightly budgeted at the moment. When Respondent's development is completed to thirty-five units there should be increased income easing budgetary considerations. The fact that there are forty-nine certified operators in the area does not necessarily mean that they are all available for employment but one of them should be able to take on Respondent's operation. Respondent should have made these factors part of his consideration when he set out to develop Watergate Subdivision. The Board finds that a penalty of \$250 is necessary to aid the enforcement of the Act.

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

ORDER

It is the Order of the Pollution Control Board that:

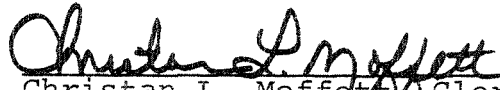
1. Donald Watson is found in violation of Section 1 an "An Act to Regulate the Operating of a Public Water Supply", Section 18 of the Environmental Protection Act and Rule 302 of Chapter 6: Public Water Supplies; Section 19 of the Act and Rule 310(A) of Chapter 6: Rule 305 of Chapter 6 and Section 18 of the Act; and Rule 306 of Chapter 6.
2. Respondent shall cease and desist further violations.

3. Within thirty-five days of the date of this Order, Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$250 which is to be sent to:

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

Mrs. Anderson abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 6th day of March, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board