

ILLINOIS POLLUTION CONTROL BOARD
October 29, 1992

HERMAN W. PRESCOTT,)
)
 Complainant,)
)
 v.) PCB 90-187
) (Enforcement)
)
 CITY OF SYCAMORE,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board on a complaint filed October 16, 1992 by Herman Prescott (Prescott or complainant) against the City of Sycamore (Sycamore). The complaint alleges that Sycamore has violated 35 Ill. Adm. Code 653.604 of Subtitle F, Public Water Supplies, by failing to maintain the required amount of chlorine residual in all active parts of the distribution system. Prescott requests that the Board order Sycamore "to supply the Northeast section of the City with a steady supply of chlorine up to standards * * *" and to conform to the recommendations of the Illinois Environmental Protection Agency (Agency), as contained in a letter attached to the complaint. (complaint at ¶9.)

On December 20, 1990 the Board denied a motion to dismiss this action filed by Sycamore. (Prescott v. Sycamore (December 20, 1990), PCB 90-187, 117 PCB 153.) In its order, the Board found that the alleged violations of 35 Ill. Adm. Code 654.403 contained in the complaint were improper because that section contains unenforceable secondary maximum contaminant levels for finished water. The Board also found that allegations related to iron and manganese were contained in the complaint, but that the complaint contained no citation to any applicable section of the Board regulations or Environmental Protection Act (Act) regarding the manganese and iron concentrations which Sycamore is claimed to have violated. The Board declined to dismiss the matter for this reason, stating that the complainant could either file an amended complaint or amend his pleadings to conform to the proof at hearing. (Id. at 2.) Prescott has not so amended his complaint or pleadings, and the Board will proceed on the alleged violation of Section 653.604 only.

Hearing was held on June 2 and 3, 1992, in Sycamore, Illinois. No members of the public were in attendance, as noted by the hearing officer. Prescott filed his brief on July 16, 1992; Sycamore filed its response brief on July 31, 1992; Prescott filed his reply to Sycamore's response on August 7, 1992.

0137-0033

APPLICABLE LAW

The Board regulations at 35 Ill. Adm. Code 604.401 require public water supplies to chlorinate their water before it enters the distribution system. Section 604.401(b) of the Board's regulations provides for the Agency to set levels and to promulgate procedures for chlorination of public water supplies. The Agency has set chlorine levels at Section 653.604. The section requires as follows:

A minimum free chlorine residual of 0.2 mg/L or a minimum combined residual of 0.5 mg/L shall be maintained in all active parts of the distribution system at all times.

It is this chlorine residual requirement contained in Section 653.604 that Prescott alleges Sycamore has violated.

The Board notes that prior to the filing of Prescott's complaint, the Board amended its public water supply regulations and that Section 604.401 was amended. (In re Safe Drinking Water Act Regulations (August 9, 1990), R88-26, 114 PCB 149.) Section 604.401 applies only until the effective date has passed for the filtration and disinfection requirements of new Subpart B of Part 611¹, pertaining to a particular public water supply. The dates are set out for each type of public water supply, classified by source, in Section 611.240. One of the following effective dates for different types of groundwater sources would apply to Sycamore's water source:

- b) A supplier that uses a groundwater source under the influence of surface water and does not provide filtration treatment shall provide disinfection treatment specified in Section 611.241 beginning December 30, 1991, or 18 months after the Agency determines that the groundwater source is under the influence of surface water, whichever is later, unless the Agency has determined that filtration is required.
- c) If the Agency determines that filtration is required, the Agency may, by special exception permit, require the supplier to comply with interim disinfection requirements before filtration is installed.

* * *

¹ The new disinfection requirements also include sampling requirements that are drastically different than any sampling conducted thus far in this proceeding.

- e) A system that uses a groundwater source under the direct influence of surface water and provides filtration treatment shall provide disinfection treatment as specified in Section 611.242 by June 29, 1993 or beginning when filtration is installed, whichever is later.

* * *

- g) CWS suppliers using groundwater which is not under the direct influence of surface water shall provide disinfection pursuant to Section 611.241 or 611.242, unless the Agency has granted the supplier an exemption pursuant to Section 17(b) of the Act.

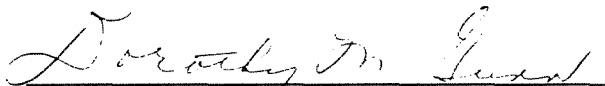
(Section 611.240.)

It is possible that disinfection requirements of Part 611 apply to this system, and that the chlorination requirements of Section 604.401 (and of Section 653.604 which proceeds from Section 604.401) are no longer in effect for this source, or have not been in effect prior to the filing of the complaint. Neither the complainant nor any other party has supplied the Board with information of what type of supply this is, other than it is a groundwater system. Therefore, in order to proceed to a determination in this matter, the parties must supply the Board with the factual information of what type of system this is so that the correct effective date and sampling requirements may be applied.

The Board orders the parties to submit a document to inform the Board of the type of public water system used by Sycamore, according to the categories listed above from Section 611.240. The parties may submit this document in the form of a stipulation, or individual documents, to be received by the Board no later than November 16, 1992.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above interim order was adopted on the 29th day of October, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board