

ILLINOIS POLLUTION CONTROL BOARD
October 19, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-83
)
JERSEY COUNTY RURAL)
WATER COMPANY, INC.,)
an Illinois corporation,)
)
Respondent.)

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

SUDES, DAVIS & WITTMAN, ATTORNEYS AT LAW (MR. GEORGE P. WITTMAN, 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 March 20, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") alleging that the Respondent, Jersey County Rural Water Company, Inc., owned a public water supply system which was operated from March 1, 1976 until March 20, 1978 with no certified 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 July 14, 1978.

At the hearing, the parties read a stipulated set of facts into the record. The stipulated facts indicate that the Respondent owns and operates a public water supply facility in Jersey County, Illinois which serves approximately 1,460 households. (R.3, R.6). This facility consists of 2 booster pumps, 3 elevated storage tanks and a distribution system. (R. 3). The public water supply system receives pre-treated water by means of a transmission main from the Alton Water Company. Thus, the facility employs no chemical treatment for its water. (R. 5).

It is stipulated that from March 1, 1976 until May 8, 1978, the Respondent did not employ a certified Class A, Class B, Class C, or Class D water supply operator as is required by

Section 1(d) of an Act to Regulate the Operating of a Public Water Supply, Ill. Rev. Stat. 1975, ch. 111-1/2, par. 501(d). (R. 5). However, on May 8, 1978, the Respondent hired Mr. Jack Shafer as operator for its public water supply system. (R. 5). Mr. Shafer has been an employee of the Jerseyville Water and Sewer Department for a number of years and currently holds a Class A Certificate issued by the Agency. (R. 5-6). He presently has no fixed term of employment and "he is required to work as many hours as the water company may require." (R. 5). Mr. Shafer is currently paid a salary of \$50.00 a month for his services. (R. 5). No one else has been employed as a Water Supply Operator in the two years prior to the filing of the Complaint in this matter. (R. 6). On May 18, 1978, the Agency sent notification to the Jersey County Rural Water Company, Inc. signifying that, because of the hiring of Mr. Jack Shafer and notification to the Agency of his hiring and qualifications, the water company had, as of that date, been placed in compliance with the Public Water Supply Act. (R. 8; Joint Exhibit B).

The stipulated background facts also indicate that, on April 1, 1977, the Agency sent a Notice of Violation to the Respondent pertaining to the lack of a properly certified water supply operator. (R. 7-8; Joint Exhibit A). After receiving that notice of violation, Mr. Larry Davis (an employee of the water company) contacted the Agency in Springfield and asked them to send him a list of dates on which he could take the appropriate exam. (R. 7). Mr. Davis eventually received the list during the summer of 1977, after he called the Agency back and requested the information again. (R. 7). Larry Davis then attempted to pass the Water Supply Operators' certification examination in November of 1977, but failed the exam by 2 points. In March, 1978, Mr. Davis took the certification examination again and failed it by 7 points. (R. 6). After taking the test the second time, Mr. Davis attended classes on public water supply operation at Southern Illinois University at Edwardsville. Mr. Davis then took the certification exam again in June, 1978 and passed the test. He was issued a Class D Water Supply Operator's Certificate the last week of June, 1978. (R. 6; Joint Exhibit C).

At the hearing, the Respondent's attorney asked the Board to "take into consideration that the Jersey County Rural Water Company is a new company, has been in operation for a very short period, has had a lot of difficulties in constructing the system, and while the initial construction was going on, additional plans were being made for extensions and ... during all that time had one employee, Mr. Davis, and that it's easy to overlook or not get things done that should be done or need to be done..." (R. 10).

The Respondent's attorney stated that, in his opinion, "the record does show that when notified Mr. Davis did attempt and continued to attempt, even before the Complaint was filed, to get into compliance" and noted that "we also regret we were not certified prior to the time the Complaint was filed." (R. 10-11). The Assistant Attorney General stated that "the Agency commends the fact that Respondent has, since the filing of that Complaint, gone out and hired Mr. Shafer, who is a properly certified Class A Operator, and also has encouraged and helped Mr. Davis to obtain the proper certification for the job; and it is assumed that from this point on the Respondent will remain in compliance with the Act." (R. 9). At the hearing, the Assistant Attorney General also indicated that "in light of the cooperation that Respondent has given the Agency up to this point," the Agency recommends that any penalty imposed by the Board should be "minimal." (R. 10).

In evaluating this enforcement action, 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 Jersey County Rural Water Company, Inc. operated its public water supply system without a properly certified operator from March 1, 1976 until March 20, 1978 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. Consequently, a penalty of \$100.00 is assessed in accordance with Section 1 of an Act to Regulate the Operating of a Public Water Supply.

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 Jersey County Rural Water Company, Inc. has violated Section 1 of an Act to Regulate the Operating of a Public Water Supply (Ill. Rev. Stat., 1975, ch. 111-1/2, par. 501) from March 1, 1976 until March 20, 1978.

2. The Jersey County Rural Water Company, Inc. shall cease and desist from all further violations 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).

3. Within 35 days of the date of this Order, the Jersey County Rural Water Company, Inc. shall pay a penalty of \$100.00 , payment to be made by certified check or money order to:

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 19th day of October, 1978 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board