

ILLINOIS POLLUTION CONTROL BOARD
February 11, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-282
)
VILLAGE OF SOUTH WILMINGTON, a)
municipal corporation,)
)
 Respondent.)

Mr. James L. Dobrovolsky, Assistant Attorney General, Attorney
for the Complainant
Mr. James L. Peacock, appeared on behalf of the Respondent

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

This case arises out of a Complaint filed by the Environmental Protection Agency (Agency) on July 23, 1975 alleging that the Village of South Wilmington (Village) operated a public water supply from September 12, 1973 until the date of the filing of the Complaint in violation of Section 1(b) of the Operation of a Public Water Supply Act (Ill. Rev. Stat. 1973, Ch. 111 1/2, par. 501-523) (Certification Statute), by failing to employ a person certified as competent as a Class B or Class A water supply operator. It was also alleged that the Village has violated Rule 302 of the Illinois Pollution Control Board Rules and Regulations, Chapter 6: Public Water Supply (Rules) by failing to have in its employ a certified water supply operator from December 21, 1974 until the date of the filing of the Complaint, and therefore in further violation of Section 18 of the Environmental Protection Act (Act).

Hearing was held on December 3, 1975, in Ottawa, Illinois at which time a Stipulation and Proposal for Settlement (Stipulation) was entered into the record. No additional evidence was adduced at the hearing; no members of the public were in attendance.

The Stipulation provided that the Village operates a public water supply serving a population of approximately 750 people. The system includes two drilled wells, a ground storage tank, an elevated storage tank and a distribution system into which the water is pumped after it is aerated and chlorinated. The Stipulation provided that the Village operated its public water supply from September 12, 1973 until the date of the filing of the Complaint without a properly certified water supply operator.

The Village's failure to have in its employment a properly certified water supply operator was noted in a field inspection on September 5, 1973 and reported to the Village by the Agency on October 3, 1973. Correspondence from the Agency concerning the lack of a certified operator and explaining the means of obtaining one was sent to the Village on March 4, 1975. On April 9, 1975, the Agency's Notice of Violation was sent to the Village. On April 23, 1975, the Agency sent a letter to the Village stating the Notice of Violation had been sent prematurely since the Agency had received an application to take the May 5, 1975 certification examination from Anton S. Shoudis, Water Superintendent for the Village. The April 23, 1975 letter stated that should Mr. Shoudis not pass the May 5, 1975 examination, the Village must employ a certified operator by May 26, 1975. Mr. Shoudis did not pass the May 5th examination and did not take the next exam given on June 2, 1975. The Complaint was filed on July 23, 1975, while in meantime Mr. Shoudis had taken the Class C operator's examination given on July 6, 1975. The examination papers were graded on July 27, 1975, at which time the Agency learned Mr. Shoudis had passed.

The Stipulation provided that no penalty should be assessed for any violations found to exist by the Board. It further provided that the Class C certificate of competence held by the Village's Water Superintendent, Anton Shoudis, satisfies the requirements of Section 1 of the Certification Statute.

On the basis of the Stipulation the Board finds that the Village did violate Rule 302 of the Rules by failing to employ a certified water supply operator from December 20, 1974 until the date of the filing of the Complaint, and finds a further violation of Section 18 of the Act. The Board notes the spirit of cooperation exhibited by the Village from March through July of 1975. In light of the efforts of Mr. Shoudis in obtaining the Class C certificate, we feel that no penalty is appropriate.

That portion of the Complaint alleging violation of Section 1(b) of the Certification Statute is dismissed for lack of prosecution. While facts are contained in the Stipulation showing that the Village operated its water supply without employing a properly certified operator, the Stipulation contains no facts which support the finding of a violation of Section 1(b) which requires the employment of a person certified as competent as a Class B or Class A water supply operator. As noted above, the parties agree that the employment by the Village of an operator holding a Class C certificate satisfies its obligations under Section 1.

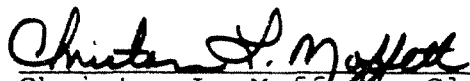
This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

IT IS THE ORDER OF THE BOARD that the Village of South Wilmington, in the operation of its public water supply, has violated Rule 302 of the Public Water Supply Rules and has further violated Section 18 of the Environmental Protection Act. No penalty is assessed for these violations.

IT IS THE FURTHER ORDER OF THE BOARD that the portion of the Complaint alleging violation of Section 1(b) of the Certification Statute is dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11th day of February, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board