

ILLINOIS POLLUTION CONTROL BOARD  
April 2, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 80-194  
 )  
VILLAGE OF GERMANTOWN, a )  
municipal corporation, and )  
THOMAS MICHEEL, )  
 )  
Respondents. )

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

HOHLT, HOUSE, DeMOSS and JOHNSON, ATTORNEYS AT LAW (MR. BRADLEY W. SMALL, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT VILLAGE OF GERMANTOWN.

MR. THOMAS MICHEEL, MAYOR OF GERMANTOWN, APPEARED PRO SE.

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

This matter comes before the Board on the October 21, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from April 24, 1980 until August 4, 1980, the Respondents failed to chlorinate the water distributed through the Village of Germantown's public water supply system in violation of Rule 305 of Chapter 6: Public Water Supplies ("Chapter 6") and Section 18 of the Illinois Environmental Protection Act ("Act").

Count I also alleged that Mr. Micheel caused the removal of the chlorination equipment from the Village's public water supply on April 24, 1980 and this equipment was not returned to service until August 4, 1980. It is alleged that water samples which were collected and analyzed on two occasions during this time period indicated excessive and unsafe bacterial levels which allegedly were caused by the failure to maintain continuous chlorination. Accordingly, on July 25, 1980, Agency employees installed and put into operation, at government expense, chlorination equipment and materials.

Count II alleged that, from April 24, 1980 until August 4, 1980, the Respondents failed to provide supplemental fluoridation to the Village's water supply system thereby causing the average fluoride ion content in the water to fall below 0.9 milligrams per liter ("mg/l") in violation of Rule 306 of Chapter 6 and Section 18 of the Act.

A hearing was held on March 9, 1981. The parties filed a Stipulation and Proposal for Settlement on March 13, 1981.

The Village of Germantown ("Village") owns and operates a public water supply system which serves about 1,300 individuals in Clinton County, Illinois. (Stip. 2). The Village, which has its own source of water (i.e., four 28 feet deep drilled drift wells and a distribution system), does not purchase water from any other public water supply. (Stip. 2). The average natural fluoride ion content of the Village's water is approximately 0.4 mg/l. (Stip. 2).

Mr. Thomas Micheel, the mayor of the Village of Germantown, is the official custodian of the water supply system. (Stip. 2). The parties have stipulated that:

"On or about April 24, 1980, Thomas Micheel removed the Village's chlorination equipment from the water supply pumphouse, locked it away and thereafter refused to reveal its whereabouts. Earlier that day, on two separate occasions, Thomas Micheel unplugged the chlorine and fluoride pumps and left written instructions that no one, including the operator, Roger Richter, was to plug them back in. Both times Roger Richter disregarded the notices and reconnected the machines. Upon returning to the pumphouse late that afternoon, Mr. Richter discovered that both pumps had been removed from the premises." (Stip. 3).

During the past several years, the Village of Germantown has experienced problems with darkly-colored water (i.e., "dirty" water) from its public water supply facility. The Agency believes that this problem has resulted from the relatively high levels of manganese in the water. Manganese, when oxidized, gives the water a black color. (Stip. 5). On the other hand, Mr. Micheel believes that the chlorine is the primary cause of the "dirty" water problem. (Stip. 5). However, the Agency contends that the chlorine merely accelerates "oxidation that is nevertheless inevitable due to" a chemical reaction with oxygen in the water and bacterial action caused by "bacteria which use manganese as part of their metabolism". (Stip. 5).

The Agency believes that the solution to the Village's "dirty" water problem is the "removal of manganese from the water." (Stip. 5). In response to the Agency's suggestion, the Village commissioned an engineering study which was completed in September, 1979 that recommended that filtering equipment be installed "to remove manganese from the raw well water". (Stip. 5).

The Agency has stated that:

"In the interim, due to numerous complaints received by the Agency and the Village as to the color and questionable quality of the water, the Agency has provided technical assistance to the Village's water supply operator in the form of advice on a main flushing program and upping chlorine feed rates to kill or inactivate manganese-consuming bacteria. The results of these operational changes have been mixed." (Stip. 5-6).

The Village's Board of Trustees consists of six Board members and the Mayor. The Mayor is the President of the Board and has "veto power over most Board actions". A two-thirds vote by the Board members can override the Mayor's veto. (Stip. 2).

At the Village Board meeting of March, 1980, Mr. Micheel indicated to the Board that he intended to remove the Village's chlorinator by Easter (i.e., April 6, 1980). The other members of the Village Board "expressed their disapproval of that action". Accordingly, Mr. Micheel indicated that he would not remove the chlorinator until he saw what action the Illinois Senate would take on Senate Bill 1404 which proposed to make chlorination optional, rather than mandatory, for public water supply systems serving smaller communities. (Stip. 6-7).

It is stipulated that:

"...after learning that S.B. 1404 apparently would not come to a vote, on April 24, 1980 Thomas Micheel removed the chlorination and fluoridation equipment. That night, several members of the Village Board met with Micheel to request that the machines be reconnected. Micheel refused to do so, and refused to disclose the whereabouts of the equipment. Several Trustees later that night discussed their options, and having no attorney decided to contact the Agency for its reaction...In the several months thereafter, the Village Board continued to request Micheel to reconnect the machines. Also, the Village Board approved the purchase of coliform testing equipment to monitor water quality. Further action was not taken by the Village Board because the Agency had not formally informed the Village of its position on the matter, and the Village Board felt that a decision by the legislature on S.B. 1404 was imminent...For its part, the Agency had decided to postpone any action on its cases against all water supplies not in compliance with the chlorination requirement pending final resolution of S.B. 1404, or until such time as there was evidence of contamination at any of those supplies". (Stip. 7-8).

On July 23, 1980, Agency water analyses of samples taken from the Village's water supply system indicated excessive growth of

coliform bacteria. (Stip. 3; See: Exhibit 1). The parties have stipulated that:

"...That same day, the Agency called the Village and Roger Richter to notify them of the contamination. Mr. Richter, on authority of the Village Board of Trustees, immediately issued a boil order to local businesses and radio stations. Shortly thereafter, Thomas Micheel contacted the radio stations and rescinded the boil order. Later that day, the Agency's Public Affairs Section contacted four radio stations in the Germantown area, and issued a boil order of its own...

At approximately 3:45 p.m. on July 25, 1980, four Agency employees arrived in Germantown to assess the situation. At the water supply's pumphouse, it was verified that no chlorination or fluoridation equipment was present. The Agency personnel then affixed the standard Agency Seal along with a written declaration of the Agency's Director limiting access to the facility to Agency personnel and Mr. Richter. At this time, Thomas Micheel gave Mr. Richter a written 30-day Notice of Termination, purportedly for assisting the Agency personnel. The Agency personnel then joined with Mr. Richter in installing an Agency-owned emergency chlorine feed pump and in making up a vat of chlorine solution, using Agency-supplied chemicals. After instructing Mr. Richter to begin systematic flushing of the system and testing for chlorine residual and to continue submitting water samples, the Agency personnel departed at approximately 6:00 p.m....

In the next few days, water samples showed a reduction in bacterial quantity and a measurable chlorine residual in the distribution system. After consistent readings of zero coliform bacteria, the Agency lifted its boil order at approximately 2:30 p.m., July 29, 1980. The missing pumps were returned and placed back in service on August 4, 1980. The Agency-owned chlorinator was returned to the Agency's Collinsville office and the seal removed on August 5, 1980". (Stip. 3-4).

The Agency has asserted that its actions in setting up the chlorine feed pump and in making up the vat of chlorine solution totaled \$581.74 which "included time and expenses of the Agency personnel as well as costs for materials and supplies furnished and expedited laboratory analysis costs". (Stip. 4; See: Exhibits 2, 3, and 4). There appears to be no question that the costs incurred by the Agency were directly in response to the deliberate actions taken by Mayor Micheel in his fight against mandatory chlorination. (See: Exhibit 5).

The proposed settlement agreement provides that the Respondents admit the allegations charged in the Complaint, agree to cease and

desist from further violations, and agree upon a stipulated penalty of \$850.00 against Respondent Micheel. (Stip. 8-9). Additionally, the Village Board has made assurances "that it will exercise its powers much more firmly in the future to prevent a recurrence of this situation". (Stip. 8).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondents, the Village of Germantown and Thomas Micheel, have violated Rules 305 and 306 of Chapter 6: Public Water Supplies and Section 18 of the Illinois Environmental Protection Act. The Respondents will be ordered to cease and desist from further violations and a stipulated penalty of \$850.00 will be assessed against Respondent Thomas Micheel.

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 Respondents, the Village of Germantown and Thomas Micheel, have violated Rules 305 and 306 of Chapter 6: Public Water Supplies and Section 18 of the Illinois Environmental Protection Act.

2. The Respondents shall cease and desist from further violations.


3. Within 60 days of the date of this Order, Respondent Thomas Micheel shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$850.00 which is to be sent to:

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

4. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed March 13, 1981, which is incorporated by reference as if fully set forth herein.

Dr. Satchell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 2<sup>nd</sup> day of April, 1981 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board