ILLINOIS POLLUTION CONTROL BOARD
October 19, 1978

ENVIRONMENTAL PROTECTION AGENCY, Complainant,	)	
v.	)	PCB 78-151
MANSON HEIGHTS, INC., an Illinois Corporation, Respondent.	)	

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

MR. STEVEN WATTS, ATTORNEY AT LAW, 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 May 23, 1978 by the Environmental Protection Agency (Agency). The complaint alleges violations of Section 18 of the Environmental Protection Act (Act); Rule 209 of Chapter 6: Public Water Supply Regulations (Chapter 6); Rule 302 of Chapter 6 and Section 1 of "An Act to Regulate the Operating of a Public Water Supply"; Rule 305 of Chapter 6; Rule 306 of Chapter 6; and Rules 309 A and 310 of Chapter 6 and Section 19 of the Act. Hearings were held concerning this matter on July 28, 1978 and September 11, 1978. At the September hearing a stipulated proposal for settlement was presented to the Board for approval. No testimony was given at this hearing.

The stipulated agreement provides the following facts. Manson Heights has at all times pertinent hereto, owned and operated a public water supply, as defined by the Act, in Knox County, Illinois approximately twelve miles east of the City of Galesburg and three miles north of an unincorporated residential area known as "Appleton".

The public water supply system consists of a distribution system, a carbon filter, and separate pressure storage tanks, one of forty gallons and the other of eighty-two gallons capacity. The system draws its water from an adjacent strip mine lake of approximately 342.3 million gallons capacity. Respondent's system has served and presently does serve thirteen homes, of which six at present are used only as vacation homes. These homes are served by two separate pumping stations which pump water drawn from the strip mine lake.

Respondent's system also at one time provided water for a campground area consisting of approximately 100 trailer/camper spaces, four outside hydrants, a bathhouse, and a swimming pool. Since on or about August 11, 1977 at least the camping area itself has been and will be served by a separate well dug by Manson Heights, and a 5000 gallons capacity pressurized storage tank has been installed for the campground. Presently the lake pumping system serves the campground only to supply water to a dumping station and arrangements have been made by Manson Heights, Inc. to sever that connection on or before January 1, 1979. None of the water which goes to the dumping station is used for drinking purposes.

After an inspection of the water supply in November 1976 an Agency inspector contacted Respondent concerning possible violations. One method of achieving compliance suggested was for Manson Heights to alter its system so that it would no longer be classified as a public water supply under the Act. Steps were then taken to modify the supply accordingly.

In the spring of 1977, a contract was made to have a new well dug for the campground. On or about August 11, 1977 this work was completed. Following this the campground water supply was severed from the lake pump houses; the connection between the lake pump houses was severed and the mains changed so that one system served eight of the thirteen homes and the other system served five. At this time iodinators were installed at each pump. Presently these systems function independently and serve as back-ups for each other. In September 1977 the Agency was informed of these changes; however, the letter was either lost or misplaced and no response was ever made.

The Agency has received several complaints about Respondent's water supply; specifically in the spring of 1977 complaints were made that at times water pressure was low or at zero. The Agency has serious reservations about the ability of the supply as designed to provide safe and adequate quality water in sufficient quantities. The Agency in a letter dated June 27, 1977 recommended that a boil order be issued until the deficiencies were corrected. With the aforementioned changes Respondent feels that the system now supplies water of adequate quantity and quality; the Agency is without sufficient information to form a final opinion about the present water supply. The parties submit that water samples taken from the supply over the past two years have given no indication that a danger of water contamination exists.

Respondents admit the alleged violations up to on or about August 31, 1977. The parties agreed the violations were unintentional and the Respondent has acted promptly and diligently to correct the problem. Upgrading the facility could run from $10,000 to $30,000. Additional annual operating costs would also be incurred. Given the costs and the size of the system Respondent submits that it would rather attempt to comply with the Act by establishing separate water supply systems, each serving less than ten residences, thus exempting these systems from current Board regulations.

Adequate physical separation of the systems has already been achieved. Perfection of the separation of ownership and transfer thereof to separate and distinct associations of the homeowners of these systems can be achieved by January 1, 1979. This method of compliance is technically practicable and economically feasible. The Board notes it has accepted such solutions in previous similar cases, EPA v. E. Lyle Epperson et al., 23 PCB 581 (1976). The location is not in issue in this cause. The facility does have significant social and economic value to the community, but the continued failure of the facility to be in compliance constitutes a potential to injure or interfere with the protection of the property and general welfare of the people.

Manson Heights agrees to cease violations of the Act and currently applicable rules and regulations by January 1, 1979. Until compliance is achieved, Manson Heights shall take all steps necessary to insure the delivery of water of adequate quality and sufficient quantity to its customers from the lake pumping systems. The steps to be taken, including the possibility of a boil order, shall be determined after consultation with Agency field personnel.

The parties agree that no present Board water supply regulations apply to the compground facility as now constituted. The Agency submits that this facility is now properly within the jurisdiction of the Department of Public Health.

The stipulation provides that considering the nature of the conditions at the subject site, the size of Respondent's operation, the general diligence of Respondent to achieve compliance and the Agency's failure to respond promptly to Respondent's overtures towards compliance, and the other control measures agreed to, the parties recommend that no monetary penalty be assessed.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. The Board finds that Respondent was in violation of the alleged Rules and Sections of the Act until August 31, 1977. Respondents will be required to comply with all the provisions of the stipulated agreement incorporated by reference as if fully set forth herein. No penalty shall be assessed.

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. Manson Heights, Inc. is found to have violated Section 18 of the Environmental Protection Act; Rule 209 of Chapter 6: Public Water Supply Regulations; Rule 302 of Chapter 6 and Section 1 of "An Act to Regulate the Operating of a Public Water Supply"; Rules 305 and 306 of Chapter 6; and Rules 309 and 310 of Chapter 6 and Section 19 of the Act.

2. Respondent shall comply with all the provisions of the stipulation incorporated by reference as if completely set forth herein.

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