

ILLINOIS POLLUTION CONTROL BOARD

May 8, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
v.) PCB 74-215
LOUIS ROKIS,)
Respondent.)

Mr. Stephen Weiss, attorney for Complainant.
Mr. Layne McGehee, attorney for Respondent.

INTERIM OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On June 7, 1974, the Illinois Environmental Protection Agency (Agency) filed a Complaint against Louis Rokis with the Illinois Pollution Control Board (Board). The Complaint alleged that the Respondent operated a public water supply in violation of the Illinois Environmental Protection Act (Act) and the Public Water Supply Regulations (Chapter Six). Complainant alleged that Respondent's operations of furnishing water from three wells to residents in six Rokis subdivisions which contain a total of 22 lots constituted operation of a public water supply. The subdivisions are located near Colona, Henry County, Illinois, in the South One-half of the Southeast Quarter and the South One-half of the Southwest Quarter of Section 1, Township 17 North, Range 1 East of the Fourth Principal Meridian. An Amended Complaint was filed November 25, 1974. Specifically, the Amended Complaint charged that Respondent from July 1, 1970, until June 7, 1974:

1. Failed to direct and maintain the continuous operation and maintenance of the public water supply to keep the water safe in quality and clean and adequate in quantity for ordinary domestic consumption in violation of Section 18 of the Act.

2. Operated and maintained his public water supply system with well Nos. 1 and 3 constructed in pits and well No. 2 buried below ground level in continuing violation of Rule 3.12 of Chapter Six and Sections 3.2.3.14 and 6.2.2 of the "Great Lakes-Upper Mississippi River Board of State Sanitary Engineers Report on Policies for the Review and Approval of Plans and Specifications for Public Water Supplies," ("Standards") incorporated in Rule 3.12 of Chapter Six and therefore in violation of Section 18 of the Act.

3. Failed, in operating and maintaining his public water supply system, to provide adequate hydropneumatic pressure storage and failed to prevent freezing in that he located the water storage

tanks for each well above the ground surface without complete housing, or failed to earth-mound the tanks with one end projecting into an operating house, all of which is a continuing violation of Rule 3.30 of Chapter Six, Section 7.1.5 of the Standards and Technical Release 10-8 as incorporated in the Standards and Section 18 of the Act.

4. Maintained and operated his public water supply with well No. 2 less than 75 feet from a septic tank and various water distribution lines from the three wells less than 75 feet from the septic drainage tiles in continuing violation of Rule 3.11 of Chapter Six, Technical Release 10-1 as incorporated into Rule 3.11 and therefore in violation of Section 18 of the Act.

5. Operated and maintained his public water supply in such a manner that he has distributed water containing offensive odor and taste in continuing violation of Section 18 of the Act.

6. Operated and maintained his public water supply through the use of undersized distribution mains of less than six inches in diameter (some as small as 3/4 inch in diameter) in continuing violation of Rule 3.40 of Chapter Six and Sections 8.1 and 8.1.3 of the Standards incorporated therein, and therefore in violation of Section 18 of the Act.

The Amended Complaint further alleged that:

7. From September 12, 1973, until June 7, 1974, Respondent failed to have a competent certified water supply operator for his system, in violation of Section 1 of an "Act to Regulate the Operating of a Public Water Supply" (Ill. Rev. Stat., ch 111-1/2, par. 501, effective September 12, 1973, as amended by PA 78-810). Jurisdiction was found upon paragraph 523 of this Act.

Hearings were held on October 22, 23, and 31, 1974, in Colona, Illinois. There was much discussion in the record of whether the Board had jurisdiction of the case in that none of the wells served 10 or more separate lots or properties. "Public Water Supply" under Section 3(j) of the Act means "all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where 10 or more separate lots or properties are being served or intended to be served; State-owned parks and memorials; and State-owned educational, charitable, or penal institutions." The definition is meant to subject all water supply systems where 10 or more separate lots or properties are being served or are intended to be served. The test is not how many wells are being operated by one individual but rather whether a water system, under the ownership and control of one person, supplies water to 10 or more separate lots or properties.

The evidence establishes that Rokis owned and controlled all three wells until the sale of well No. 2 in early 1973. His owner-

ship is established because he carried out the incidents of ownership on the subdivisions; namely, he told individual buyers that he would supply water to them (R. 136, 214, 268, 330); he paid for the drilling of wells Nos. 2 and 3 and the distribution system from all three wells (R. 108-114); he installed the original storage tanks at all three wells (R. 133, 134); and he received rent in connection with the operation of all three systems until the 1973 sale of well No. 2 (Resp. Ex. 4). Based on these considerations we find that the Respondent owned all the wells until early 1973, and continued to own well Nos. 1 and 3 thereafter, and that the three wells constitute one public water supply within the meaning of the Act. The Board therefore has jurisdiction to determine whether violations of the Act and regulations occurred.

The record discloses that in operating the public water supply for residents of the subdivisions, Rokis violated the Act and the regulations. Section 18 of the Act was violated because Respondent supplied inadequate quantities of water to users to meet their daily and ordinary needs. Water outages have occurred frequently (R. 270, 312, 320-332) although usually for less than 24-hour periods. Water pressure has been low on numerous occasions when Rokis has been owner of the public water supply (R. 216, 248, 270). Violations of Section 18 of the Act for distributing water containing offensive odor were not established by the record. Complaints relating to odor have occurred on well No. 2 after the early 1973 date on which Respondent had sold the well to another neighbor. Since we rule that Respondent is not liable for odors at well No. 2 after it was transferred to a neighbor, we need not rule on the question of whether "offensive odors" constitute a violation of Section 18 of the Act.

Respondent violated various Rules of Chapter Six. First, pursuant to sections 3.2.3.14 and 6.2.2 of the Standards, Rule 3.12 (Construction) was violated from July 1, 1970, until early 1973 for all three wells and until June 7, 1974, for well Nos. 1 and 3. The well casings did not project six inches above the pump-house floor since none of the wells had pump-house floors. Furthermore, none of the casings extended 18 inches above ground level (R. 19). Second, pursuant to Section 7.1.5 of the Standards and Technical Release 10-8 incorporated by that Section, Rule 3.30 (Storage Reservoirs) was violated from July 1, 1970, until early 1973 for all three wells in that the pressure tanks for the wells were not above ground and were not completely housed. During this same period the storage tank for well No. 2 and until June 7, 1974, the storage tank for well No. 3 were insufficient to meet the requirements of 35 gallons per capita as required by Technical Release 10-8 (R. 118, 134). Third, pursuant to Technical Release 10-1 incorporated into Chapter Six, Rule 3.11 (Location) was violated from July 1, 1970, until early 1973 for well No. 2 because the well and septic tank were not 75 feet apart (EPA Ex. 3; R. 106). Fourth, pursuant to Section 8.1 and 8.1.3 of the Standards, Rule 3.40 (Distribution Systems) was violated from July 1, 1970, until early 1973 for the distribution system of all three wells and until June 7, 1974, for well Nos. 1 and 3 in that size of diameter of less than four inches was used in the subdivisions as admitted by Respondent in his testimony (R. 133).

Section 1 of an "Act to Regulate the Operating of a Public

Water Supply" requires that a person certified as a competent water supply operator conduct the operations of a public water supply. Board jurisdiction is founded on Section 23 of this Act. Respondent violated Section 1 of this Act in that he was neither a certified operator nor contracted with another so certified to operate his public water supply (R. 36). Violations occurred from September 12, 1973, until June 7, 1974.

While Section 33(c) of the Act might require the imposition of a large penalty against the Respondent for violations in connection with all three wells since July 1, 1970, we will not assess a penalty at this time. The serious nature of the problems facing the residents makes clear that cooperation among affected persons is the best method to resolve the difficulties. At the close of the hearing, citizens expressed a desire to form associations to operate the system associated with well No. 2 and the system associated with well No. 3. These citizens should meet with the parties and all should attempt to work out an agreement to serve the needs of the area. Good-faith efforts by Respondent to accommodate the affected residents will be considered by the Board when the time is appropriate for imposition of a penalty. The parties, after consultation with affected residents, are given 75 days to submit a compliance plan that will meet the requirements of the Act and regulations. Failure of the parties, after consultation with the affected persons, to submit within 75 days an acceptable plan to resolve the difficulties at the site before the onset of winter weather shall result in the Board's imposing upon the Respondent an enforcement order consistent with the facts of this case.

The Board retains jurisdiction of this matter while the parties and affected persons attempt to resolve the problems at the subdivisions.

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

ORDER

IT IS THE ORDER of the Illinois Pollution Control Board that:

1. Respondent violated Section 18 of the Act, certain Rules of Chapter Six, and Section 1 of an "Act to Regulate the Operating of a Public Water Supply" from July 1, 1970, until June 7, 1974, as set out more completely in the Opinion.

2. The parties shall meet with residents supplied on a regular basis with water from well No. 3 to work out a compliance plan. The plan shall satisfy the Act and regulations as well as meet the reasonable needs of affected persons. A copy of the compliance plan signed by the parties, after consultation with the affected persons, shall be filed with the Board. Failure to submit within seventy five (75) days from the adoption of this Order a plan that can be completed during the warm weather months of this year will result in the imposition of an appropriate Order against the Respondent.

3. The parties shall make reasonable efforts to meet with residents supplied on a regular basis with water from well No. 2 to try and correct problems resulting from activities of Mr. Rokis during his operation of that well.

4. The Board retains jurisdiction of this proceeding.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 8th day of May, 1975, by a vote of 3-0



Christan L. Moffett, Clerk
Illinois Pollution Control Board