

THE ENVIRONMENTAL APPEALS BOARD
OF THE STATE OF DELAWARE

IN THE MATTER OF:)
Albert J. Homiak,) Introduction, Findings,
Caravel Farms) of Fact, The Law, Decision
and Order
)

INTRODUCTION

1. A hearing was held on Wednesday, March 5, 1980, before the Environmental Appeals Board in the Supreme Court conference room, Dover, Delaware at 10:00 a.m. to consider an appeal filed by Albert J. Homiak appealing the decision of the Secretary of the Department of Natural Resources and Environmental Control holding that the lowering of the water level in Mr. Homiak's well was not caused by the draw-down of water by Artesian Water Company.

2. Present at the hearing were Thomas J. Kealy, Chairman, Evelyn Greenwood, Clifford Hubbard, Ray Woodward, ^{Joseph B.} Edward Melson, ~~Phyllis Schabinger~~ and Wheeler K. Neff, Deputy Attorney General.

3. All exhibits introduced into the record are incorporated herein by reference.

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FINDINGS OF FACT

1. Albert J. Homiak testified that he had a conventional driven well on his property that supplied his home with water without any problems prior to February of 1978.

2. According to Mr. Homiak, the problems with his well which included air sucking, sputtering and greatly reduced capacity began in the Spring or Summer of 1978.

3. Mr. Homiak testified that the timing of his well's failure coincided with Artesian's draw-down which together with the Department's finding that other wells in the area failed because of Artesian, led him to conclude that Artesian also caused his well to fail.

4. Michael A. Apgar, supervisor of the Water Supply Branch of the Department of Natural Resources and Environmental Control, testified that the nearby Artesian Water Company pumping station draws its water from the Potomac aquifer which underlays the area. According to Mr. Apgar, the adjacent surficial sands waters from which the Homiak well draws does not serve to replenish the water drawn by Artesian from the Potomac aquifer.

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5. While slight seepage may occur from the surficial sands to the Potomac aquifer, the water drawn by the Artesian pumping station would not significantly lower the water levels in wells drawing from the surficial sands as is evidenced by the relatively slight drop in water level of the Erdman well.

6. For driven wells which are 10-12 years old, the primary cause of failure is the clogging of the intake screen with sediment and/or iron precipitates. Mr. Homiak's driven well is approximately 12 years old.

THE LAW

Under the provisions of 7 Del. C. §6008(a) any person whose interest is substantially effected by any action of the Secretary may appeal to the Environmental Appeals Board within twenty (20) days after the Secretary has announced the decision. Appeals of a decision of the Secretary shall be conducted according to 29 Del. C. §6606 and regulations promulgated pursuant to section 6010. Pursuant to §6008, the Board may affirm, modify or reverse the decision of the Secretary.

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Caravel Farms

DECISION AND ORDER

It is hereby the decision of the Board that the finding of the Secretary that the draw-down by the Artesian pumping station was not the cause of the failure of the Homiak well is hereby affirmed. It is further ordered, however, that the Department in handling future well-failure complaints involving pumping stations, should advise complainants to seek professional assistance in determining the cause of their well's failure including contacting the water company suspected of being the cause of failure to see if said water company is willing to reimburse the well owner for the cost of investigating the failure if such investigation ultimately reveals that the water company draw was, in fact, at fault.

Thomas J. Keay

Ray K. Woodward

Garrett Greenwood

Clifford H. Haskins 5/7/80

Joseph B. Nielson

Wheeler K. Neff
Wheeler K. Neff
Deputy Attorney General

DATED: May 8, 1980