

ILLINOIS POLLUTION CONTROL BOARD
March 17 , 1977

LAKE HOLIDAY HOMEOWNERS ASSOCIATION,)
)
 Petitioner,)
)
 v.) PCB 77-1
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

On January 3, 1977 the Lake Holiday Homeowners Association filed a petition seeking a variance from Rule 203(h) of the Chapter 3: Water Pollution Regulations in order to treat Lake Holiday with rotenone, a fish toxicant, to alleviate fish management problems. The Environmental Protection Agency filed its Recommendation on February 25, 1977.

Lake Holiday is located on Somonauk Creek in Sections 3, 4, 8 and 9 of Township 36N, Range 5E, of LaSalle County. The Lake is 328 acres in size with a maximum depth of 30 feet and an average depth of 16 feet.

Petitioner alleges that Lake Holiday, which is primarily used for recreational fishing, is currently over-populated with undesirable carp, crappie, gizzard shad, green sunfish and badly stunted bluegill.

During September 1977, Petitioner proposes to treat the Lake with 3,500 gallons of fish toxicant containing 2.5% emulsifiable rotenone, 2.5% sulfoxide technical as a synergist, 5.0% related rotenoids and cube extractives, and 90.0% solvent emulsifier. Petitioner contends that since rotenone is biodegradable, such application will have minimal long-term effects on the ecology of the lake. Petitioner estimates that a 2 ppm concentration of the toxicant will be required to remove the fish. Such treatment is expected to remove 250 pounds of fish per acre from the lake. Dead fish are to be buried at a sanitary landfill. After administration of the fish toxicant, Petitioner proposes the utilization of precautionary measures which include:

- a. The toxicant will be applied by a Department of Conservation fishery biologist who holds a Public Pesticide Applicator's License.

- b. Signs will be posted at the lake to warn against use for two weeks after application.
- c. A partial drawdown will be effected to eliminate discharge of treated water into the downstream watershed.
- d. Detoxification of the chemical will be completed two weeks after application.
- e. A supply of potassium permanaganate will be on hand at the time of the application should it be necessary to detoxify the rotenone at that time.
- f. Effluent waters will be tested by holding fish in live cars 48 hours after detoxification.

Petitioner states that the volume of Lake Holiday is 1,710,066,048 gallons and that 3,500 gallons of toxicant are necessary to provide a 2 ppm dosage rate required to eliminate the fish. The Agency's figures do not agree. The Agency determined, on the basis of data contained in Report on Holiday Lake prepared by the National Eutrophication Survey, that the volume of Lake Holiday is 862,691,717 gallons and that 3,500 gallons of toxicant would provide a 4 ppm dosage rate.

According to the Agency, Somonauk Creek is fed by Lake Holiday. Neither body of water is used as a source for public water supplies. Somonauk Creek joins the Fox River approximately six miles downstream from Lake Holiday; Fox River runs approximately 15 miles to the Illinois River. Approximately 70 miles downstream from the confluence of the Fox and Illinois River, the City of Peoria utilizes the Illinois River as a source of public water supply.

The Agency does recommend the grant of the variance subject to certain conditions.

The Board currently has pending a regulatory proposal, R75-7, that if adopted would amend Rule 203(h) to allow the application of pesticides registered with US EPA by, or under, the supervision of the Illinois Department of Conservation provided that such application would not contaminate public and food processing water supplies.

In the past the Board has granted variances to Rule 203(h) to allow the application of pesticides to enhance game fishing,

Kelly-Springfield Tire Co. v. EPA, PCB 75-235; Illinois Natural History Survey v. EPA, PCB 76-43. These previous variances have always been conditioned on certain precautionary measures. The Board finds that sufficient hardship does exist to grant a variance from Rule 203(h). The precautions provided for in this petition combined with the Agency's suggestions should provide adequate control of any hazards and still allow good fishery management.

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 the Lake Holiday Homeowners Association is hereby granted a variance from Rule 203(h) of the Chapter 3: Water Pollution Regulations to apply rotenone to Lake Holiday during the month of September 1977 subject to the following conditions:

- a. Prior to application of the fish toxicant, Petitioner and the Agency shall jointly determine the volume of Lake Holiday and the amount of toxicant necessary to achieve a 2 ppm dosage rate.
- b. Petitioner shall adhere to all precautionary measures detailed in the above opinion.
- c. Petitioner shall dispose of all fish in an approved sanitary landfill.
- d. Within 28 days of the Board's final order herein, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, Manager, Division of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706, and to the Illinois Pollution Control Board, a Certificate of Acceptance and Agreement to be bound to all conditions of the variance. The Form of said Certificate shall be as follows:

CERTIFICATION

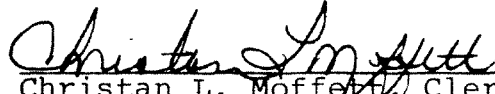
I (We) , _____, having read and fully understanding the order of the Illinois Pollution Control Board in PCB 77-1, hereby accept said order and agree to be bound by all terms and conditions thereof.

Signed _____

Title _____

Date _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 17th day of March, 1977 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board