

fore unable to predict what impact, if any, this additional load will have on the lake. Petitioner submits that it will have no detrimental effect upon the maintenance of the sport fishery which is the purpose of the lake.

On January 5, 1976 the Agency filed a Petition for Regulatory Change (R76-1) with the Board which would amend Chapter 3 regarding phosphorus and would expand the present 1.0 mg/l phosphorus effluent limitation to all facilities having an untreated waste load of 1500 PE or more discharging into impoundments of greater than 20 acres. That Regulation is currently in hearing before the Board. Eutrophication studies by both the United States Environmental Protection Agency and the Illinois State Water Survey indicate that the contribution of point source dischargers to the total phosphorus problems of lakes and reservoirs is small compared with the non-point source contribution. Land run-off from farm land fertilized with phosphate base fertilizers accounts for the overwhelming majority of the phosphorus loading in most lakes and reservoirs.

In the light of the foregoing, and the exceedingly small phosphorus contribution of Petitioner's discharge to Lake Argyle, the Board finds that Petitioner is entitled to a variance. Petitioner also seeks a variance from Rules 402 and 404(f). Rule 402 provides, as does Rule 404(f)(ii)(A), that no effluent shall alone or in combination with other sources cause a violation of any applicable water quality standard. Rule 404(f)(ii)(D) requires in part that the operator file a project completion schedule for achieving compliance with applicable water quality standards (phosphorus). The Board finds that Petitioner is also entitled to variance from Rules 203(c), 402, 404(f)(ii)(A) and 404(f)(ii)(D) as those Rules concern phosphorus.

The Agency raised some questions in their Recommendation which we will comment upon here. First, the Agency indicates that they interpret the petition to request a variance from the BOD and SS limitations of Rule 404(f); we do not make that interpretation but limit the relief granted solely to phosphorus in accordance with our discussion in the preceding paragraph. Secondly, the Agency notes that the discharge at Argyle Lake State Park has never been permitted by an NPDES permit issued by the United States Environmental Protection Agency. There is no indication that there is an existing discharge requiring an NPDES permit. Since NPDES permit applications are required to be filed 180 days prior to beginning of discharge, it would appear that there is ample time for application since the facility is not scheduled for operation until May 15, 1977. Finally, the petition contains the following statement:

"As such it is a recognized fact that nutrients such as phosphorus are required for good fish management, and are sometimes added by Department personnel. A letter to this effect is attached to this petition." (Emphasis added).

In fact the letter attached to the petition reads as follows:

"I talked with Ken Russell, Fishery Biologist in charge of Lake Argyle, and he indicated that this discharge would not present any problems from a fisheries standpoint. In fact, he felt that an increase in nutrients could benefit the lake."

The Agency is apparently concerned from their reading of the foregoing that the Department is applying phosphorus to the waters of the State in violation of Chapter 3; we do not reach the same conclusion based on the letter attached to the petition.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Department of Conservation is granted a variance for the operation of the Argyle Lake State Park treatment facility from the phosphorus limitations of Rules 203(c), 402, 404(f)(ii)(A) and 404(f)(ii)(D) of Chapter 3: Water Pollution Regulations until October 14, 1981, subject to the following conditions:

1. This variance will terminate upon adoption by the Board of any modification of the existing phosphorus water quality standards and effluent limitations and the Department of Conservation shall comply with such revised regulations when adopted by the Board.

2. Petitioner's discharge from the Argyle Lake State Park treatment facility shall not exceed 1550 gdp based on a 30-day average.

3. Within 35 days of the date of this Order, Petitioner shall submit to the Manager, Variance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706, an executed Certification of Acceptance and agreement to be bound to all terms and conditions of the variance. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____ having read

the Order of the Illinois Pollution Control Board in PCB 76-199, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.


SIGNED

TITLE

DATE

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of October, 1976 by a vote of 50.



Christan L. Moffett, Clerk
Illinois Pollution Control Board