

ILLINOIS POLLUTION CONTROL BOARD

May 15, 1975

EXLINE SPORTSMENS CLUB,)
Petitioner,)
)
)
v.) PCB 75-128
)
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

On March 25, 1975, the Exline Sportsmens Club filed a Petition For Variance with the Illinois Pollution Control Board (Board). Petitioner sought a variance from Rule 203(h) of the Water Pollution Regulations (Chapter Three) to apply rotenone to its private fishing pond. Rule 203(h) states: "any substance toxic to aquatic life shall not exceed one-tenth of the 48-hour median tolerance limit (48-hr. TLM) for native fish or fish food organisms." Petitioner operates a private fishing club in the SE 1/4, Section 25, T. 31N., R. 12E. three miles east of Kankakee, Illinois. The pond, which has a surface area of 1 1/2 acres, has a volume of nine acre-feet.

Petitioner seeks to apply six gallons of a 5% rotenone solution to the pond during April or May of this year. There are no discharges from the pond, which is used exclusively for members' fishing. The purpose of the fishkill is to rebalance the fish population to permit restocking with fingerlings. The Club stated that a fishery biologist from the Illinois Department of Conservation will administer the toxin. Petitioner stated that "all dead fish will be collected and disposed of."

On April 28, 1975, the Illinois Environmental Protection Agency (Agency) recommended that the variance be granted. The Agency indicated that it had received additional information in a March 31 submission to complement the information received on March 25, 1975. The Agency stated that Petitioner does not intend to have detoxification agents available during the kill. The Agency believed that detoxification chemicals should be available. The Agency also requested that the dead fish be disposed of in a landfill instead of following the present plan to let club members keep the dead fish. Finally, the Agency believed that the Petitioner should not make any use of the water until fingerling trout or bluegill survived 48 hours in livecars in the pond.

We grant the variance subject to the conditions recommended by the Agency. The Board has granted variances in cases similar to this in the past. See City of Jacksonville v.

Environmental Protection Agency PCB 74-92, 13 PCB 631
(September 19, 1974) and Lake Patterson Fishing Club v.
Environmental Protection Agency PCB 74-341, 14 PCB 529
(November 22, 1974). In balancing the circumstances of the
Petitioner against the potential adverse environmental impact
resulting from a single application of a toxicant as well as
considering the beneficial effects from the fish kill to the
community, it would be an unreasonable hardship to deny the
Petition For Variance in this case.

This Opinion constitutes the finding of fact and con-
clusions of law of the Board.

ORDER

The Exline Sportsmens Club is hereby granted a variance
from Rule 203(h) of Chapter Three from May 1, 1975, until June
15, 1975, to permit it to apply a 5% concentration of rotenone
to its private pond provided that:

(a) A method for detoxification of the rotenone is avail-
able to protect against possible environmental harm;

(b) The dead fish are immediately disposed of in an
Agency-approved landfill;

(c) A Department of Conservation Fishery Biologist applies
the rotenone; and

(d) The pond is closed for all use until such time as
fingerling bluegills survive 48 hours' exposure in livecars in
the pond.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control
Board, hereby certify that the above Opinion and Order was
adopted on the 15th day of May, 1975, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board