

ILLINOIS POLLUTION CONTROL BOARD

April 24, 1975

COVES PROPERTY OWNERS ASSOCIATION, )  
Petitioner, )  
v. ) PCB 75-114  
ENVIRONMENTAL PROTECTION AGENCY, )  
Respondent. )

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

On March 11, 1975, the Coves Property Owners Association filed a Request For Variance with the Illinois Pollution Control Board (Board). Petitioner sought a variance to enable it to apply the fish toxicant, Fintrol concentrate (antimycin A), to Lake of the Coves in amounts in excess of the limits in Rule 203 (h) of the Water Pollution Regulations (Chapter 3). Rule 203(h) provides that:

"Any substance toxic to aquatic life shall not exceed one-tenth of the 48-hour median tolerance limit (48-hr ILM) for native fish or essential fish food organisms."

Lake of the Coves, which is owned by the Coves Property Association, is an artificial impoundment of water proximate to Witt and Penny Roads in Sections 26 and 27, T. 42N., R.9E, in South Barrington, Cook County, Illinois. Lake of the Coves occupies 81.5 surface acres and contains 546.1 acre-feet of water. This is not a public water supply. Petitioner is seeking a variance so that it can make one application of 1.0 to 1.5 ppb of antimycin A to the Lake in order to selectively remove small bluegill, black crappie, and green sunfish which are allegedly over-abundant in the Lake and which need to be thinned in order to provide better fishing in the Lake. If Petitioner is granted a variance, the fish toxicant is to be administered by a Fishery Biologist from the Illinois Department of Conservation. Petitioner alleged that after treatment of the Lake with antimycin A, potassium permanganate ( $K Mn O_4$ ) will be applied to the Lake's discharge in order to detoxify the antimycin A, thereby preventing the occurrence of any fish kills downstream from Lake of the Coves.

The Illinois Environmental Protection Agency (Agency) filed its Recommendation on April 10, 1975. The Agency reported that Lake of the Coves discharges continuously through a culvert into a 19-acre lake which is also owned by the Coves Property Owners Association. The 19-acre lake then discharges into Poplar Creek, which is tributary to the Fox River. None of these is used for public water

supply. The Agency recommends that the Petitioner be granted a variance from Rule 203(h) of Chapter 3, subject to certain conditions.

On April 16, 1975, Petitioner filed a motion for an expedited decision in this case. The Fishery Biologist "has recommended that the antimycin A be applied to The Lake of the Coves in late April, prior to the hatching of bass," rather than in May, 1975, as indicated in the original Request For Variance. Petitioner alleged that "if the chemical is not applied in late April, an entire year will be lost, because we would not want to kill the bass which would hatch in May." We grant Petitioner's motion, although its Request For Variance should have been filed earlier to insure action by the Board in April.

We grant the variance, subject to conditions suggested by the Agency. Variances have been granted in cases similar to this to correct imbalance in fish population. 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). The use of antimycin A permits differential killing of undesirable fish populations; does not harm indigenous plants, insects, or animals; and is biodegradable to non-toxic form within several days. In the light of the characteristics of antimycin A, the precautions to be used in applying the fish toxicant and in disposing of the dead fish, and the interests of fishing in the area, it would be an unreasonable hardship to deny the variance in this case.

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

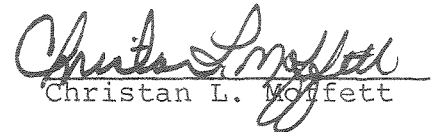
#### ORDER

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

1. Petitioner's motion for an expedited decision in this case is granted.
2. The Coves Property Owners Association is hereby granted a variance from Rule 203(h) of Chapter 3 to make one application of 1.0 to 1.5 ppb of antimycin A to Lake of the Coves at any time from the adoption of this Order until May 31, 1975, provided the following conditions are carried out:
  - (a) The application of the antimycin A shall be done by a Department of Conservation Fishery Biologist.
  - (b) The detoxifier, potassium permanganate shall be applied to the Lake's discharge by a Department of Conservation Fishery Biologist to assure that no environmental harm occurs downstream from Lake of the Coves.

- (c) The Lake shall be closed for all use and the Lake shall be posted against any use after the application of the antimycin A until such time as fingerling rainbow trout or fingerling bluegill survives 48-hours exposure in live cars.
- (d) The antimycin-killed fish shall immediately be taken to an approved landfill site for disposal.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 24<sup>th</sup> day of April, 1975, by a vote of 4 to 0.

  
Christan L. Moffett