

ILLINOIS POLLUTION CONTROL BOARD

November 22, 1974

LAKE PATTERSON FISHING CLUB,)
 Petitioner,)
)
 v.) PCB 74-341
)
ENVIRONMENTAL PROTECTION AGENCY,)
 Respondent.)

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

On September 20, 1974, the Lake Patterson Fishing Club (Club) filed a Petition For Variance with the Pollution Control Board (Board). The Club desired to apply four pounds of the fish toxicant, antimycin, to the shoreline area of Lake Patterson at a point opposite its spillway. The purpose of the application was to reduce the number of small fish in the lake. The Club hoped to apply the chemical in October 1974 or April 1975, depending upon the pH of water in the lake. The Petitioner alleged that it had arranged for a biologist from the Illinois Department of Conservation to supervise administration of the toxicant. The Club intended to leave the dead fish in the lake, since the lake water is not used for human consumption. Lake Patterson is located in Clay County two miles east of LaCleda, Illinois.

The Environmental Protection Agency (Agency) filed its Recommendation on October 22, 1974. Subject to certain conditions, the Agency recommended that the variance be granted. The Agency indicated that relief was sought from Rule 203(h) of the Water Pollution Regulations (Chapter Three). Rule 203(h) provides that "any substance toxic to aquatic life shall not exceed one-tenth of the 48-hour median tolerance limit for native fish or fish food organisms." The Club leases the lake from the Illinois Central Railroad, which has authorized the application of antimycin. The 74-acre lake contains ninety-three million gallons of water. From the spillway, water is discharged into an unnamed tributary which flows into Dismal Creek. Approximately ten miles downstream, there occurs the confluence of Dismal Creek and the Little Wabash River. The Village of Louisville draws its public water supply from the Wabash River approximately thirty miles downstream from the Lake Patterson spillway. The Agency believed that should any antimycin flow to the intake point of the Village public water supply, "any trace of fish toxicant present at this point would be miniscule." The Agency confirmed the allegations found in the Club's Petition.

We grant the variance. We agree with the Agency that the dead fish need to be cleaned up, and we have so ordered. Although the facts presented leave many questions unanswered, our past experience with antimycin convinces us that the program here can be safely carried out. See City of Jacksonville v. Environmental Protection Agency PCB 74-92, _____ PCB _____ (September 19, 1974). Our

decision to permit application of antimycin is based on the toxicant's selectivity, its rapid degradation rate, and the limited harm that other members of the food chain would experience should they ingest any of the water or fish killed. In light of the benefit to certain members of the community and the minimal risk caused by proper toxicant administration, we believe it would be an unreasonable hardship to deny the variance in this case.

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

ORDER

The Lake Patterson Fishing Club is granted a Variance from Rule 203(h) of Chapter Three to enable it to make one application of four pounds of antimycin concentrate to the shore line of Patterson Lake during the six months immediately after the date of this Order, subject to the following conditions:

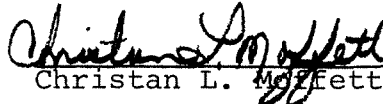
(a) Petitioner shall close Patterson Lake and the lake's surrounding land area to all primary and secondary contact uses, including but not limited to swimming, boating, fishing, and camping during the period of administration of the fish toxicant and until such time as a fingerling rainbow trout or fingerling bluegill will survive 48 hours of exposure in livecars.

(b) Petitioner shall carry out a method of disposal of the dead fish (other than allowing the dead fish to remain in the lake) acceptable to the Agency.

(c) The application of the fish toxicant to Patterson Lake shall be made under the direct, on-site supervision of a fishery biologist from the Illinois Department of Conservation.

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 22ND day of November, 1974, by a vote of 4 to 0.


Christan L. Moffett