

ILLINOIS POLLUTION CONTROL BOARD
August 14, 1975

E. W. KNEIP, INC.,)
an Indiana Corporation,)
Petitioner,)
)
v.) PCB 75-171
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

On April 24, 1975, E. W. Kneip, Inc. (Kneip) filed a petition for variance with the Illinois Pollution Control Board (Board). The Petitioner requested an extension of variance granted on January 3, 1974 (PCB 73-55 and PCB 73-174 Consolidated), as later extended to May 3, 1975 (PCB 74-372), from the requirements of Section 12 of the Illinois Environmental Protection Act (Act) and Rules 203, 402, 404, 405, 407, 408, and 903 of the Water Pollution Regulations (Chapter 3). In substance, Kneip requests a variance so that it can continue to pollute local streams while it works with the Village of Elburn (Village) to construct and operate a consolidated treatment system to control the water pollution problem.

On May 30, 1975, the Illinois Environmental Protection Agency (Agency) filed its recommendation with the Board agreeing that Kneip should be granted a variance from the effluent and water quality standards previously exempted in the Board Order of January 3, 1974, and that such variance should extend until September 30, 1975, subject to a number of conditions designed to control Kneip's effluent quality on an interim basis. Kneip subsequently filed a supplement to the petition on July 15, 1975, in which they updated their compliance status and agreed with the conditions in the Agency recommendation.

Kneip owns and operates a red meat slaughtering and packing plant on 280 acres of land at 404 West Nebraska in Elburn, Kane County, Illinois. Welch Creek, which is a waterway that drains into Big Rock Creek, which is tributary to the Fox River, is located contiguous to the Kneip property. Approximately 400,000 gallons of water are used daily to clean the plant and the carcasses of the approximately 400 cattle slaughtered each day. The waste water,

after treatment with a skimmer and screen, is pumped to a primary clarifier and then to an irrigation spray field which is located adjacent to the packing plant.

The present system was found to be defective in that effluent reached Welch Creek, polluting the waterway. As a result of the January 3, 1974, Board Order, Kneip agreed to install by September 1, 1975, a new waste water treatment system that would insure Kneip's discharges would meet the standards of the Act and the Water Regulations. By the end of 1974, Kneip, finding that the cost of the waste water treatment system would approximate the book value of the installation at Elburn, decided that if another economically reasonable alternative was not available, they would have to close the Elburn Packing Plant.

Kneip has since, at a cost of \$3,000, investigated the possibility of discharging its effluent, after pretreatment, to a consolidated waste water facility to be constructed by the Village. Pursuant to this investigation, Kneip has signed an agreement with the Village of Elburn indicating their intent to pursue the construction of the consolidated treatment plant if relevant permits and funding could be obtained. In addition, Kneip has entered into a contract for the construction of a \$360,000 pretreatment facility which will be operational around March of 1976. It is Kneip's intention to use the pretreatment plant ahead of their present irrigation system until such time as they are able to connect to the proposed consolidated treatment plant.

Kneip has completed a \$75,000 program of interim control measures which, the Agency reports, has successfully met expectations and reduced the quantity and concentration of contaminant discharge. The proposed compliance plan has, as an essential element of ultimate compliance, the connection of the pre-treatment system to the Village of Elburn's Sewage Treatment System. Kneip at this time cannot be sure that the Village will go forward with the upgrading of their treatment system, but in any event, has elected to go forward with their pretreatment system. The pretreatment system will be erected at an estimated capital cost of \$400,000 and an estimated annual operating cost of \$20,000. The entire system will cost Kneip \$1,186,000 in capital expenditures, \$590,000 of which will be repayable to the Federal Government over a 20 year term. Denial of this variance would cause Kneip to either close their packing plant at Elburn or to commit an amount of money equal to the book value of the installation to the construction of their own treatment plant. The Board finds that either choice

would impose an arbitrary and unreasonable hardship upon Petitioner in light of the alternative compliance plan proposed by Kneip, using funds borrowed from the Federal Government.

The Board finds that Kneip has carried its burden of good faith in pursuance of compliance with the Board's regulations. The Board, however, agrees with the Agency's recommendation that the variance be conditioned so as to assure that Kneip continues their good faith effort toward compliance.

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

ORDER

It is the Order of the Pollution Control Board that Petitioner is granted a variance from Section 12 of the Act and Rules 203, 402, 404, 405, 407, 408 and 903 of Chapter 3 from May 4, 1975, until April 1, 1976, subject to the following conditions:

a. Petitioner shall implement completion of the pre-treatment facility according to the following schedule:

<u>Date</u>	<u>Activity</u>
July 1, 1975	Submit preliminary design to Agency.
December 1, 1975	Apply for construction permit.
April 1, 1976	Begin construction.
December 1, 1976	Complete construction.

b. Petitioner shall not increase the strength or quantity of waste waters discharged.

c. Petitioner shall continue to maintain and increase operational efficiencies of their waste water system.

d. Petitioner shall make timely submittals of additional information concerning the Elburn Sewage System upgrading as such information becomes available.

e. Petitioner shall take all measures to expedite the Elburn upgrading program.

f. In the event that the Elburn program is not accomplished, Petitioner shall devise and submit an alternative compliance program by January 1, 1976.

g. On or before September 30, 1975, Petitioner shall secure from the Village of Elburn a duly executed written commitment between the Village and the Petitioner for the Village to accept the Petitioner's waste, setting forth all terms and conditions of said commitment.

h. Petitioner shall, within 28 days after the date of this Order, execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 and to the Pollution Control Board, a certification of acceptance and agreement to be bound to all terms and conditions of this variance.

CERTIFICATION

The E. W. Kneip Company, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 75-171, hereby accepts said Order and agrees to be bound by all of the terms and conditions thereof.

Signed _____

Title _____

Date _____

Mr. Henss abstained in this decision.

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 August, 1975 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board