

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1979

E. W. KNEIP, INC.,)
an Indiana Corporation,)
)
Petitioner,)
)
v.) PCB 79-23
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

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

This matter comes before the Board on an Amended Petition for Variance filed by E. W. Kneip, Inc. on February 22, 1979, for an extension from the applicable effluent and water quality standards. Petitioner requests an extension of its variance from Rules 203, 402, 404, 405, 407 and 408 of Chapter 3: Water Pollution Regulations. On April 5, 1979, the Environmental Protection Agency submitted a recommendation favorable to the grant of the variance extension until September 30, 1980, subject to certain conditions. No hearing was held on this matter; Petitioner properly waived hearing and the 90-day statutory decision period in its pleadings submitted to the Board.

E. W. Kneip, Inc. owns and operates a livestock slaughtering and packing plant in Elburn, Kane County, Illinois which requires 400,000 gallons of water to process approximately 440 cattle slaughtered each day. After pretreatment, wastewater from the slaughter house is received by the Welch Creek which flows into the Big Rock Creek before it empties into the Fox River. (Pet. 1, 2)

Since the pollution problem was identified in an action brought against Kneip and others in PCB 73-55, February 7, 1973, the Petitioner has fully cooperated with the Agency to develop the best practicable means for bringing the Kneip plant into compliance. Numerous variance grants reflect these efforts: PCB 73-174, February 21, 1974; PCB 74-372, February 14, 1975; PCB 75-171, August 18, 1975; PCB 75-60, May 10, 1976; PCB 77-46, August 4, 1977.

In the initial enforcement action, the Board ordered the Petitioner on January 3, 1974, to undertake a compliance plan pursuant to the parties' settlement agreement, which provided for interim measures and long range programs. Petitioner was originally given until January 3, 1975, to complete its total program of compliance. (Pet. 3)

In the course of implementing the requirements of the settlement agreement, Petitioner discovered that the proposed treatment plant was economically unfeasible and that time was needed to study alternative means and devise a consolidated treatment system agreeable to both the Agency and the Petitioner. As an alternative to the original agreement, Kneip agreed to install a pretreatment system (costing over \$400,000) to connect to a sewage treatment plant to be built by the Village of Elburn. In the last two variance petitions, the Petitioner's extensions were necessitated by the Village of Elburn's inability to finish its sewage treatment plant by the projected completion date. (Pet. 3, 8-9; Rec. 2)

Petitioner's pretreatment facility was completed in July, 1976, or approximately six months in advance of the scheduled completion date. Pursuant to Board order 76-50, Petitioner has investigated alternative interim compliance programs, including construction of a lagoon requested in that order. The cost was estimated to be in the hundreds of thousands of dollars, far in excess of any interim benefits. A plan to use the Village lagoon until completion of the Village STP proved impossible because the Village treatment system does not contemplate use of a lagoon. Petitioner's engineers also investigated ways to incorporate a bio-oxidation process into its pretreatment system to improve the effluent quality. However, this method was rejected for a number of reasons including high cost, the lengthy construction period required and the possibility that the whole process could prove ineffective. After reviewing the interim compliance measures, the Board will agree with the Petitioner that interim means for reducing BOD are not practical. (Pet. 6-8)

As indicated throughout this record, Petitioner has acted expeditiously and in good faith in seeking compliance. Since the settlement agreement accepted by the Board on January 3, 1974, Petitioner has undertaken the investigation of alternative interim measures, completed its pretreatment facility ahead of schedule and has currently spent substantial amounts in an effort to comply with the applicable effluent and water quality standards. The existing delay is through no fault of the Petitioner.

Under these circumstances, the Board finds that denial of an extension to the existing variance would cause an arbitrary and unreasonable hardship for the Petitioner. The Board will therefore grant a variance extension to E. W. Kneip, Inc. subject to the conditions set forth in this order. The extension will be granted until the Elburn sewage treatment plant is completed and is operational.

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

ORDER

1. E. W. Kneip, Incorporated is granted a variance from Rules 203, 402, 404, 405, 407 and 408 of Chapter 3: Water Pollution Regulations for its facility in Elburn, Kane County, Illinois until the Village of Elburn sewage treatment plant has been completed and is operational, subject to conditions in paragraphs 2, 3, 4 and 5 as set forth below.

2. Petitioner shall not increase the strength or quantity of wastewater discharged from its facility in Elburn, Kane County, Illinois.

3. Petitioner shall continue to maintain and increase operational efficiency of its wastewater systems in Elburn, Kane County, Illinois.

4. Petitioner shall make timely submittal of any information concerning the Elburn sewage system upgrading program and shall take all reasonable measures to expedite this program.

5. Within forty-five (45) days of the date of this order, the Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Variance Section, Manager, 2200 Churchill Road, Springfield, Illinois, 62706 and to the Illinois Pollution Control Board a Certificate of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period shall be suspended during judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said Certification shall be as follows:

CERTIFICATION

I, (We), _____ having read the Order of the Pollution Control Board in PCB 79-23, 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 10th day of May, 1979, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board