

ILLINOIS POLLUTION CONTROL BOARD

February 14, 1975

E.W. KNEIP, INC.,)
Petitioner,)
)
v.) PCB 74-372
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

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

On October 16, 1974, E.W. Kneip, Inc. (Kneip) filed its Petition for Variance with the Pollution Control Board (Board). An Amended Petition was filed with the Board on December 30, 1974. In this Petition Kneip requested a variance until May 3, 1975, from Section 12 of the Environmental Protection Act (Act) and from Rules 203, 402, 404, 405, 407, 408, and 903 of the Water Pollution Regulations (Chapter Three). On December 30, 1974, the Petitioner filed a Motion For An Expedited Decision On Amended Petition For Variance Extension. In our Interim Order of January 9, 1975, we granted Petitioner's Motion contingent upon receipt of necessary data in the forthcoming Recommendation of the Environmental Protection Agency (Agency). The Agency filed its Recommendation on January 27, 1975.

Kneip owns and operates a red meat slaughtering and packing plant at 404 West Nebraska in Elburn, Kane County, Illinois. Process wastewaters are treated in an on-site treatment facility. Primary clarification precedes wastewater discharge to a spray irrigation system. Surface runoff and drain tile discharges resulting from the operation of the spray irrigation system flow into Welch Creek, a tributary of Big Rock Creek, and ultimately to the Fox River.

On January 3, 1974, the Board adopted an Opinion and Order relating to Kneip's facility. See Environmental Protection Agency v. Peter Eckrich and Sons, Inc., an Indiana corporation qualified to do business in Illinois; and E.W. Kneip, Inc., an Illinois corporation PCB 73-55 and PCB 73-174; 10 PCB 505 (January 3, 1974). In that case we ordered the Petitioner to undertake a compliance program which provided for interim measures as well as a long-range program. Petitioner was given until January 3, 1975, to complete its total program of compliance.

Because of soaring cost estimates for its long-range compliance plan, Kneip has been forced to abandon the wastewater treatment system proposed by its engineers and accepted by the Board in its January 3, 1974, Order. This business decision was made approximately December 1, 1974. Kneip has already spent \$75,000 on its interim program. Since initial consideration of the long-term compliance program, Petitioner alleges that the costs of the program have increased as follows:

Estimated Costs		
Date of Estimate	Capital Expenditure Required	Yearly Maintenance Costs
July, 1973	\$340,000	\$50,000
December, 1973	\$450,000	\$50,000
September, 1974	\$750,000	\$100,000
December, 1974	\$1,100,000	\$100,000

Petitioner alleges that the latest cost estimate almost equals the book value and far exceeds the market value of its facility. Petitioner contends that unless an economically reasonable alternative disposal method can be found, the plant will be closed.

Petitioner is presently discussing with the Village of Elburn the feasibility of discharging its wastewater into a treatment facility to be constructed by the Village. Kneip is now paying Village engineers \$2,000 to \$3,000 to conduct a study and prepare a system that could be jointly constructed and operated by Kneip and the Village of Elburn. This study will be completed by April 1, 1975. If the engineers conclude that the joint program is not technically practicable or economically reasonable, Kneip will end its operations when the interim variance would expire on May 3, 1975. If a program agreeable to Kneip is found, Kneip will file a further Petition for Variance and a modified compliance program with the Board.

The Agency recommended that the variance be granted. The Agency cites the \$75,000 already spent on the interim program and the reduced quantity and concentration of contaminants now being discharged. The Agency made an inspection on November 13, 1974, with the following sample results:

<u>Estimated Flow</u> <u>GPM</u>	<u>BOD</u> <u>mg/l</u>	<u>SS</u> <u>mg/l</u>	<u>Fecal Coliform</u> <u>per 100 ml</u>
Tile 1 75	16	25	3,500
Tile 2 75	17	21	4,300
Tile 3 5	27	15	7,000
Tile 4 7	32	8	18,000
Tile 5 5	37	7	17,000
Tile 6 0	-	-	-
Tile 7 50	30	17	6,100

In view of the fact that BOD concentrations in excess of 100 mg/l and Fecal Coliform concentrations in excess of 1,000,000 per 100 ml were not uncommon previously, the above concentrations, though still excessive, represent a substantial improvement.

We agree that the variance should be granted. Petitioner has expended substantial sums and made good faith efforts towards compliance. Marked improvement has been achieved in the discharge concentrations. Finally, we do not favor the closing of plant operations before all viable solutions to the control of illegal discharges can be investigated. Based on the facts and circumstances of this case, it would be an unreasonable hardship to deny the short variance requested here.

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:

1. Petitioner is granted a Variance from Section 12 of the Act and Rules 203, 402, 404, 405, 407, 408, and 903 of Chapter Three from January 3 until May 3, 1975, so that alternative methods of compliance with the Act and Chapter Three can be investigated.

2. Petitioner shall limit the quantity and concentrations of its discharges as much as practicable.

Mr. Henss abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14th day of February, 1975, by a vote of 3 to 0.


Christan L. Moffett