

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

Petition for Adjusted Standard
from 35 Ill. ADM. CODE 620.420
For Nobel Risley's Landfill #2

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AS 08-003
(Adjusted Standard-Water)

NOTICE OF FILING

To:	Mr. James Kropid Division of Legal Counsel, #21 Illinois Environmental Protection Agency 1021 North Grand Avenue East Post Office Box 19276 Springfield, Illinois 62794	Carol Webb Hearing Officer Illinois Pollution Control Board 1021 North Grand Avenue East Post Office Box 19274 Springfield, Illinois 62794
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PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board a **FILING OF PROOF THAT DOCUMENTS SERVED TO RESPONDENT ARE IDENTICAL TO DOCUMENTS FILED WITH THE BOARD** in the above-titled matter. Copies of these documents are hereby served upon you.

Respectfully submitted,

Nobel Risley

By: LIVINGSTON LAW FIRM

/s/ Penni S. Livingston

DATED: October 12, 2007

PENNI S. LIVINGSTON #06196480
Attorney for the Petitioner
penni@livingstonlaw.biz
5701 Perrin Road
Fairview Heights, IL 62208
Telephone 618-628-7700
Fax 618-628-7710

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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Petition for Adjusted Standard) AS 08-003
from 35 Ill. ADM. CODE 620.420) (Adjusted Standard-Water)
For Nobel Risley's Landfill #2)

FILING OF PROOF THAT DOCUMENTS SERVED TO RESPONDENT ARE IDENTICAL TO DOCUMENTS FILED WITH THE BOARD

NOW COMES the Risley Landfill #2 ("Risley"), by and through its attorney, Penni S. Livingston, of the Livingston Law Firm, and in its **Filing of Proof that Documents Served to Respondent are Identical to Documents Filed with the Board**, states as follows:

1. For the past several months, Petitioner has attempted to work closely with Illinois EPA in finding ways to certify closure of its landfill in an expeditious manner consistent with the Illinois EPA regulations. See Exhibits A and B.
2. On or about September 12, 2007, copies of a Notice of Filing, an Appearance, a Petition for Adjusted Standard, a Motion for Expedited Review, and a Motion to Allow Filing of Less Than Nine Copies, were properly served by U.S. Mail to the Illinois Environmental Protection Agency's ("Illinois EPA") Division of Legal Counsel. These documents were received by Illinois EPA Division of Legal Counsel on or about September 13, 2007.
3. This mailing sent by Petitioner did not include the "Technical Justification for an Adjusted Standard for Chlorides in Ground-water"(dated November 7, 2006) or the "Response to IEPA Comments" (dated July 10, 2007) that were filed with this honorable Board on September 5, 2007, as Illinois EPA had received these documents on or about the above-specified dates. The Notice of Filing received by Respondent reflect this notation.

Electronic Filing, Received, Clerk's Office, October 12, 2007

4. At the time of filing, Petitioner reasonably believed that Respondent would not object to the lack of service of the documents dated November, 7, 2006, and July 10, 2007, given Respondent's familiarity with the case and intimate involvement with the issues at hand. The Illinois EPA has had the original technical data for over a year. Delay has already occurred.

5. In its September 27, 2007, Motion for Extension of Time, Respondent states that it cannot readily determine whether the copies received on November 7, 2006, or on July 10, 2007, are the same in form or in substance as the documents filed with the Board on September 5, 2007, and would have this honorable Board extend the time frame for Illinois EPA's recommendation, pursuant to 35 Ill. Adm. Code 101.416(a), to reflect a date 45 days from which Respondent receives proper service of the above-referenced documents.

6. According to 35 Ill. Adm. Code 101.500 (d), Petitioner had until October 11, 2007, (14 days) to file a response. On October 4, 2007, this honorable Board issued an Order granting Respondent's Motion for Extension of Time whereby Illinois EPA's recommendation due date became November 19, 2007, to reflect 45 days after the date of the Order.

7. As a result, Petitioner elected not to file its response to Respondent's Motion for Extension of Time, yet believes that the record must reflect proof that the documents filed with the Board are identical to the documents in Respondent's possession.

8. The attached affidavit by Mr. John Bognar, R.G, C.P.G., of Leggette, Brashears, & Graham, Inc. (Exhibit C), should be sufficient proof that the materials filed with the Board are indeed the same materials provided to Illinois EPA on these previous dates.

WHEREFORE, Petitioner respectfully requests that this honorable Board accept proof that the documents filed with the Board are identical to the documents in Respondent's possession and find that Respondent has been properly served pursuant to 35 Ill. Adm. Code 101.304(b).

Respectfully submitted,

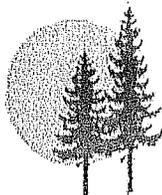
Nobel Risley

By: LIVINGSTON LAW FIRM

/s/ Penni S. Livingston

DATED: October 12, 2007

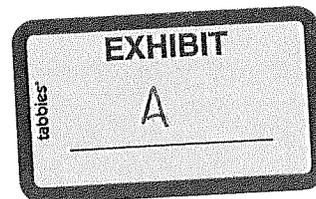
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LIVINGSTON LAW FIRM

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July 11, 2007

Ms. Gwenyth Thompson
Illinois Environmental Protection Agency
Division of Land Pollution Control # 33
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Re: Risley Adjusted Standard

Dear Gwenyth:

Enclosed you will find one bound volume of additional data and requested information in the Risley Adjusted Standard application. By nearly identical letter, I am also sending one bound volume to James Kropid in the Legal Division. This is a follow up to the previously submitted Draft Petition for an Adjusted Standard on the Risley #2 landfill with respect to Chlorides and the Technical Justification for an Adjusted Standard for Chlorides in Ground-water dated November 7, 2006 prepared by: Leggette, Brashears, & Graham. I have modified the Petition to coincide with comments made including requesting a lower adjusted standard and enclosed the new draft Petition as well.

We expect to file the Petition with the Pollution Control Board by August 15th as requested by our client, which is five weeks from today. Our client has been quite patient with both the agency and his own helpers and it has been eight months since I first contacted the agency for pre-filing review and well over a year since my client retained me on this matter. He really wants to obtain certification of closure and he has been responsible in bringing this result about. I hope the Agency will find its way to support this adjusted standard. It is the only way to certify closure and clean up the books and statistics for all involved and it is the right thing to do.

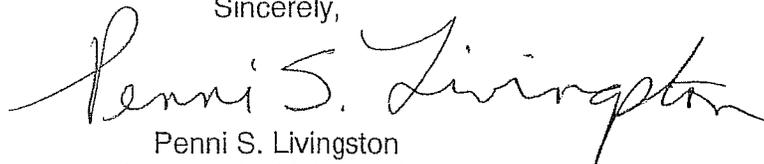
If you have any additional comments or requests, please let me know as soon as possible. If we do not hear from the Agency, we will file the Petition along with the documents previously submitted and the documents now being submitted in the same format as submitted. I will not resend the volumes enclosed in an effort to save trees but I will send the Petition as filed. If the Agency agrees with the Adjusted Standard, we will file the original document drafted by LBG with whatever changes you request so as to streamline the process. If the Agency has not made a decision by August 15th or has decided to fight the Adjusted Standard before the Board, we will file the documents in the exact form you see here and in the previously submitted report. If there are any changes, I will resend the documents but I do not anticipate changes without further Agency comment. If the Agency wishes another approach to submission in an agreed Adjusted

Standard, we will comply with your wishes as to the form of submission.

It is a pleasure working on these issues with you. My client has come along way in seeing the benefits of the Agency's role. Please reward him when he does well especially in putting together such a good team to make sure everything is done right. I look forward to hearing from you and working with you on any residual issues. I hope you see the efforts that were made here and that the Adjusted Standard is the only way to get to certification of closure rather than abandonment for lack of ability to get certification of closure.

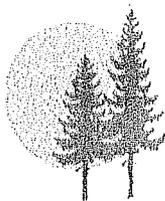
Thank you for all your efforts as well. I truly appreciate the work you do.

Sincerely,

A handwritten signature in cursive script that reads "Penni S. Livingston". The signature is written in black ink and is positioned above the typed name and title.

Penni S. Livingston
Attorney for Nobel Risley

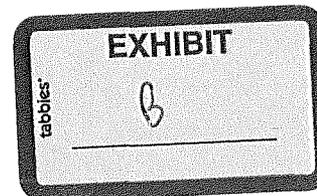
cc: James Kropid
John Bognar
Nobel Risley



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July 11, 2007

Mr. James Kropid
Illinois EPA
Legal Division #21
1021 N. Grand Ave East
Springfield IL 62794-9276

RE: Risley Adjusted Standard

Dear James:

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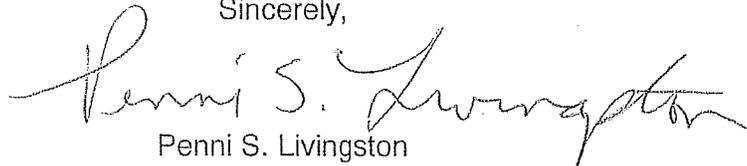
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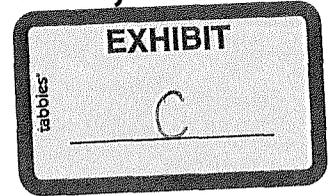
Thank you for all your efforts as well. I truly appreciate the work the Agency does.

Sincerely,

A handwritten signature in cursive script that reads "Penni S. Livingston". The signature is written in black ink and is positioned above the printed name and title.

Penni S. Livingston
Attorney for Nobel Risley

cc: Gwyneth Thompson
John Bognar
Nobel Risley



STATE OF ILLINOIS)
) SS
COUNTY OF ST. CLAIR)

AFFIDAVIT

I, JOHN L. BOGNAR, after being duly sworn and upon my oath, state as follows:

1. I, John L. Bognar, am a Registered Geologist in the State of Missouri, a Professional Licensed Geologist in the State of Illinois, and a Certified Professional Geologist by the American Institute of Professional Geologists.

2. I am currently serving as a Senior Associate and Office Manager (Hydrogeologist) with Leggette, Brashears and Graham, Inc., of St. Louis, Missouri.

3. I attest that all geological interpretations and work that are the subject of the reports entitled "Technical Justification for an Adjusted Standard for Chlorides in Groundwater" (dated November 7, 2006) and the "Response to IEPA Comments" (dated July 10, 2007) were performed under my direction and reviewed by me.

4. The copies of these documents filed with the Illinois Pollution Control Board on or about September 7, 2007, are identical to the documents delivered to Ms. Gwyneth Thompson, of the Illinois Environmental Protection Agency, and Mr. James Kropid, Division of Legal Counsel for the Illinois Environmental Protection Agency on or about the above-referenced dates in Paragraph 3.

FURTHER AFFIANT SAYETH NOT.

John L. Bognar

JOHN L. BOGNAR, CPG, LPG

Subscribed and sworn to before me this 5th day of Oct., 2007.

Notary Public *Martha J. Kuerz*

