

ILLINOIS POLLUTION CONTROL BOARD
December 4, 1997

| | | | |
|------------------|---|----------------------------|----------|
| SANGAMON COUNTY, |) | AC 94-28 | AC 94-81 |
| |) | AC 94-29 | AC 94-82 |
| Complainant, |) | AC 94-48 | AC 94-90 |
| |) | AC 94-49 | AC 94-91 |
| v. |) | AC 94-50 | AC 94-95 |
| |) | AC 94-51 | AC 95-8 |
| ESG WATTS, INC., |) | AC 94-52 | AC 95-18 |
| |) | AC 94-58 | AC 95-21 |
| Respondent. |) | AC 94-59 | AC 95-28 |
| |) | AC 94-60 | AC 95-29 |
| |) | AC 94-61 | |
| |) | (Administrative Citations) | |
| |) | (Consolidated) | |

ORDER OF THE BOARD (by M. McFawn and G. T. Girard):

On November 18, 1997, respondent ESG Watts, Inc. (Watts) filed with the Board a "Motion to Enforce Settlement Agreement." On November 26, 1997, Sangamon County (Sangamon) filed a response. Attached to Watts' motion was a copy of the purported settlement agreement, signed by only one party (Watts).

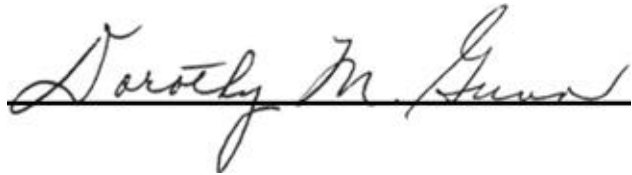
For a settlement agreement to be effective in a case before the Board, a proposal, signed by both parties, must be filed with the Hearing Officer and ultimately approved in an order by the Board. 35 Ill. Adm. Code 103.180. In these cases, no proposed settlement signed by both parties has been filed, much less approved. There is therefore no operative settlement agreement for the Board to enforce. Accordingly, Watts' motion is denied.

We note that in administrative citation cases such as these, the Board has very limited authority in assessment and allocation of penalties. For example, upon finding a violation in an administrative citation proceeding, the Board is limited to imposing a \$500 fine plus hearing costs. The Board has no discretion to impose different or additional penalties. See 415 ILCS 5/42(b)(4) (1996). So, to the extent a settlement incorporates additional penalties or terms, the Board cannot approve it.

In conclusion, since no settlement has been filed by the parties and approved by the Board in any of these cases, Watts' "Motion to Enforce Settlement Agreement" is denied.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of December 1997, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board