

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 the following for the above-titled matter:

1. AMENDED PETITION FOR ADJUSTED STANDARDS TO ADD SULFATES AT THE SUGGESTION OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY AND TO ADDRESS POLLUTION CONTROL BOARD COMMENTS ON PREVIOUS PETITION;
2. MOTION TO ALLOW FILING OF LESS THAN NINE COPIES;
3. MOTION FOR RECONSIDERATION OF THE BOARD'S RULING ON THE ISSUE OF WAIVER OF HEARING IN ITS NOVEMBER 1, 2007, ORDER; and
4. PROOF OF SERVICE FILING

Copies of these documents are hereby served upon you.

Respectfully submitted,

Nobel Risley

By: 

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Attorney for the Petitioner

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DATED: November 30, 2007

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**AMENDED PETITION FOR ADJUSTED STANDARDS TO ADD SULFATES AT THE
SUGGESTION OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY AND
TO ADDRESS POLLUTION CONTROL BOARD COMMENTS ON PREVIOUS
PETITION**

NOW COMES the Petitioner, Risley Landfill #2 ("Petitioner," "Risley" or "Landfill #2"), by and through its attorney Penni S. Livingston, of the Livingston Law Firm, pursuant to §28.1 and consistent with §27(a) of the Illinois Environmental Protection Act, 415 ILCS 5/28.1, 5/27(a), and 35 Ill. Adm. Code 104.400, *et seq.*, and hereby files this Amended Petition requesting that this honorable Illinois Pollution Control Board (hereinafter the "Board") allow for Adjusted Standards to requirements contained in 35 Ill. Adm. Code 620.420 increasing the allowable limits of chlorides under Class II Groundwater Standards from 200 mg/L to 600 mg/L and increasing the allowable limits of sulfates under Class II Groundwater Standards from 400 mg/L to 4,500 mg/L, both for the Risley Landfill #2.

These requested Adjusted Standards allow the Illinois Environmental Protection Agency (hereinafter "IEPA") to certify closure of the Risley Landfill #2. In support of the request for Adjusted Standards, the Petitioner states as follows:

Introduction

1. Consistent with Section 27 of the Illinois Environmental Protection Act, 415 ILCS 5/27, (hereinafter the “Act”), the Board may adopt substantive regulations that make different provisions as required by circumstances for different contaminant sources and which may include regulations specific to individual persons or sites. Furthermore, in accordance with Section 28.1 of the Act, 415 ILCS 5/28.1, after adopting a regulation of general applicability, the Board may grant an Adjusted Standard for persons who can justify such an adjustment consistent with Section 27 of the Act. Petitioner will demonstrate to the Board that it meets the standards set forth in these Sections of the Act with respect to its request for Adjusted Standards for chlorides and sulfates. Most importantly, Petitioner will demonstrate that the requested relief will not result in environmental or health effects more adverse than those considered by the Board in adopting the rule of general applicability. Petitioner believes that the requested Adjusted Standards will not result in any adverse environmental impacts as demonstrated by the evidence in the attached Technical Reports and those previously submitted.

2. This Amended Petition is supported by evidence gathered together in much more detail in the reports prepared by Leggette, Brashears & Graham (“LBG”), the oldest and one of the most respected groundwater consulting firms in the nation. The reports attached to the original Petition are entitled “Technical Justification for an Adjusted Standard for Chlorides in Groundwater” and are herein adopted in full by reference in this Amended Petition. The report attached to this Amended Petition is entitled “Technical Justification for an Adjusted Standard for Sulfates in Ground Water”. These reports were prepared for Mr. Nobel Risley concerning Risley Landfill #2.

The LBG report on Chlorides and responses to IEPA Comments regarding the LBG report with supporting data and tables are dated November 7, 2006 (to be labeled as Exhibit 1), and July 10, 2007 (to be labeled as Exhibit 3), respectively. The reports on chlorides were previously filed unlabeled with the Board on or about September 5, 2007, with the original Petition for Adjusted Standard. The LBG report on Sulfates is dated November 6, 2007, and filed herein as Exhibit 2. Hereinafter, these reports are collectively referred to as the "Technical Reports." Every issue addressed in this Amended Petition is addressed in more detail with supporting technical data in the attached and referenced Technical Reports. Exhibits 4 through 7 include documentation requested by the Board and, together with the Technical Reports, contain the entire body of written evidence presented in support of this Amended Petition.

Landfill Description/ Existing Physical Conditions/ Character of the Area

3. The site involved in this Amended Petition is a closed landfill located in rural Franklin County, Illinois, with an address of 9957 River Bend Road, Benton, Illinois 62812. The site is composed of a main landfill, with a footprint of about eight acres with up to 20 feet of thickness of waste which is centrally situated on a 38-acre parcel of land, and a smaller trench-filled area to the north, comprising of approximately 0.4-acres. The IEPA permit number is 1980-21-DE/OP. The IEPA Site Number is 055 802 0005.

4. Landfill #2 was constructed by removing naturally occurring unconsolidated earth materials of glacial derivation which are present above a thick shale formation, leaving the shale formation in place, then filling the excavation with non-hazardous municipal solid waste, and, finally, placing cover material consisting of unconsolidated earth material.

5. Per the permit requirements for site development set forth in the July 29, 1980, letter from IEPA to Petitioner (Exhibit 6), construction of the landfill required that all sand, silt, and other soil layers which are located between ground level and the shale layer and have a permeability greater than 1×10^{-7} cm/sec. be removed from the Sealing Trench and replaced with clay having a maximum permeability of 1×10^{-7} cm/sec. and be compacted in two-foot layers to a density of 95 percent (Proctor method). In areas where clay is placed directly on the shale layer, the clay had to be keyed at least two feet into the shale layer. A minimum of 10 feet of clay with a maximum permeability of 1×10^{-7} cm/sec. over the entire width and length of the Sealing Trench had to be laid. The Sealing Trench had to be certified as to construction, permeability and density in 300-ft. long sections. The old well near B-6 had to be backfilled with clay. Permanent markers extending at least three feet above ground level had to be placed at all breaks in the property line and at 300-ft. intervals over the Sealing Trench. A vegetative screen had to be maintained between the landfill site and the neighboring Edward Timberend property.

6. According to the permit, no liner was required for construction. Specific areas were designated where the landfill would operate by trenches. Area 1 began adjacent to the west property line. The trenches in Area 1 ran north and south with the first trench being excavated along the west property line with the operation moving in an easterly direction.

7. According to Attachment VII of the permit application (Exhibit 6), surface water pollution had to be controlled by providing temporary ditching around areas of operation to prevent surface runoff from flowing to operating portions of the landfill and by maintaining daily cover of the refuse.

8. Final cover construction began with the preparation of the subgrade by the stripping and removal of all vegetation, top soil, and deleterious material from the area. Any shallow depressions were stripped, drained, and filled with structural fill to the level of the surrounding ground elevation. This fill was compacted to achieve 90% of the maximum dry density (standard Proctor method). Once the subgrade was prepared, a compacted clay layer was constructed over the entire landfill area to achieve a minimum final cover thickness of two feet and to at least 90% compaction. Further description of the cap is provided in the August 1999 EMCON Report (Exhibit 4).

9. Landfill #2 began operations in February 1981, ceased receiving non-hazardous municipal solid waste in 1988, and closed both landfill areas between May 11, 1999 and July 19, 1999, lasting a period of approximately 18 years. According to Attachment VIII, Item C. 35, of Petitioner's Landfill Application, the Landfill was required to have two full-time employees (a supervisor and an equipment operator) and to hire additional personnel as needed on a part-time basis (Please see Exhibit 6). At the time operations began, the Landfill required four employees to operate and maintain the landfill. These employees consisted of a manager, pit person, bulldozer operator, and a mechanic. When only maintenance was required, particularly since closure, only one employee was present at the Landfill. At this time, there are no employees other than the owner. The landfill is closed.

10. The July 13, 2000, Supplemental Permit No. 1999-285-SP (Exhibit 7), outlines the specific closure requirements for Landfill #2, including those pertaining to groundwater monitoring. As to specific references to closure requirements cited by the Technical Documents, Sections 1.4,

of both the Technical Justification for Chlorides, dated November 7, 2006, and the Technical Justification for Sulfates, dated November 6, 2007, refer to correspondence between IEPA and LBG (on behalf of Petitioner). Further, Exhibits 4 through 5 also address closure requirements set forth by permit.

11. As to any leachate and gas emissions from Landfill #2, none were observed during a 4-year quarterly inspection period performed by EMCON/Shaw Environmental, Inc. (Exhibit 5, Shaw/EMCON January 2005 Report, Appendices C and D). While there is no pollution control equipment at the landfill, there is an engineered cap that is in place and certified (Exhibit 4, EMCON August 1999 Report).

12. The surrounding area is rural and sparsely populated with light agricultural use. The nearest town is Benton, Illinois, approximately two miles Northeast with a population of 7,000. There are two rural residences immediately next to the 38-acre parcel, one on the east and one on the west along the frontage road.

13. The Franklin County area obtains its public water supply from Rend Lake. There are no private water wells located down gradient of the landfill. The natural groundwater in the area of the landfill is sporadic in occurrence and is significantly mineralized, thereby precluding its use for drinking water or other purposes. This groundwater in this area is not capable of supporting sustained yield of water given the limited horizontal area of the aquifer, the limited saturated thickness, and the very low hydraulic conductivity. The groundwater at the landfill is unsuitable for and domestic use and practically inaccessible.

14. The receiving body of any groundwater from the landfill area is the Big Muddy River. The average flow of the Big Muddy River is 605 cubic feet per second. According to the Technical Reports prepared for Nobel Risley, “[t]he change in chloride concentration in the Big Muddy River due to the inflow of impacted groundwater is 3.33×10^{-4} percent. The reason for the extremely low impact to chloride concentration in the Big Muddy River is because the flow is over 1.7 million times greater than the groundwater flow emanating from the Landfill.”

15. As to sulfates, “[t]he change in the sulfate concentration in the Big Muddy River due to the inflow of impacted groundwater is 4.62×10^{-6} percent. The reason for extremely low impact to chloride concentration in the Big Muddy River is because the flow is over 5 million times greater than the groundwater flow emanating from the Landfill.”

16. There is virtually no practical scenario in which the groundwater down gradient of Landfill #2 would be used for industrial, domestic, or agricultural use.” Furthermore, as previously stated, there are no private water wells down gradient of Landfill #2.

**Issues of Technical Feasibility and Economic Reasonableness
of Compliance Alternatives for Reducing Chlorides and Sulfates
Apparently Coming from the Closed Risley Landfill #2**

17. The evidence makes clear that reducing the chlorides that showed up in two monitoring wells and sulfates that showed up in six monitoring wells from this old landfill is technically infeasible and economically unreasonable. Full analysis is found in the supporting evidence to this Petition (Exhibits 1 through 3). Treatment options considered to comply with the standard include pumping and dewatering the landfill and treating the effluent for a cost of about \$615,000 with an annual operation and maintenance cost of \$81,000 per year. A second option is

a possible groundwater trenching system with treatment of groundwater for a cost of \$583,000 with an annual operation and maintenance cost of \$78,000. The final and most expensive option is to relocate the landfill for a cost of about \$17.5 million. While developing treatment options was considered with all seriousness, Mr. Risley, who recently had a kidney transplant and is unable to continue to work for a living, is not in a financial position to pay any of these costs.

18. Please see Appendix N of the Chlorides Technical Report (Exhibit 1) attached to this Amended Petition for details on treatment option costs.

Substantially Different Factors

19. The landfill at issue in this case has been closed for years and cannot obtain certification of closure without these Adjusted Standards. Mr. Risley would like to obtain certification of closure now that the landfill has met its post-closure care obligations. Although there have been measurements of chlorides in the leachate of the landfill as high as 680 mg/L, the average chloride concentration in monitoring wells around the landfill is 26 mg/L, much lower than the allowable standard. This average, as shown by the monitoring data, the geological and hydraulic data, and the modeling, indicates that there is virtually NO IMPACT on the Big Muddy River as the receiving water. As to sulfates, there is even less of an impact to the Big Muddy River. Furthermore, any health effects due to the concentration of sulfates emanating from the site are essentially non-existent.

**Petitioner Seeks Adjustment from Class II Groundwater Standards
Under 35 Ill. Adm. Code 620.420(a)**

20. The regulation at issue in this Petition is found at 35 Ill. Adm. Code 620.420(a). Section 620.420 establishes Class II requirements for general groundwater quality standards to be met in waters of the State in order to protect groundwater. Section 620.420 (a)(2) establishes limits for chlorides at 200 mg/L and sulfates at 400 mg/L.

21. The “*Technical Justification for an Adjusted Standard for Chlorides in Ground-Water*” prepared by LBG in November 7, 2006, lists the Groundwater Classification as “Class I: Potable Resource Groundwater”. However, as part of work performed to address IEPA comments to the LBG November 7 “*Technical Justification*” report, hydraulic conductivity values derived from slug tests of monitoring wells at the site indicate groundwater does not meet criteria for a Class I groundwater (i.e., hydraulic conductivity values are less than 1E-04 cm/sec; see Page 5 of the LBG report “*Technical Justification for an Adjusted Standard for Chlorides in Ground-Water, Response to IEPA Comments,*” dated July 10, 2007). Therefore, the groundwater classification for the Adjusted Standards for both chlorides and sulfates should be “Class II: General Resource Groundwater”, in accordance with 35 Ill. Adm. Code 620.250.

Proposed Adjusted Standards

22. Risley petitions the Board to adopt the following language to establish the requested proposed Adjusted Standard:

The concentrations of dissolved chlorides shall not exceed 600 mg/L and the concentrations of dissolved sulfates shall not exceed 4,500 mg/L in the

groundwater at the Risley Landfill #2 (IEPA Site Number is 055 802 0005, IEPA permit number is 1980-21-DE/1OP) located at 9957 River Bend Road, Benton, Illinois 62812. The horizontal boundaries within which the Adjusted Standards apply shall be the property boundaries. The vertical boundaries are defined as all the groundwater that occurs below the surface and above the first occurrence of shale, the latter of which is shown on Figure 8 of the "Technical Justification for an Adjusted Standard for Chlorides in Ground-Water" Report dated November 7, 2006. The Class II Groundwater Standards for dissolved chlorides and dissolved sulfates as set forth at 35 Ill. Adm. Code 620.420 shall not apply to the groundwater at the Risley Landfill #2.

The legal description for the property is as follows:

Part of the South One-Half (S ½) of the Southwest One-Fourth (SW 1/4) of the Southeast One-Fourth (SE 1/4) of Section 22, Township 6 South, Range 2 East in Franklin County, Illinois, approximately eight (8) acres.

The North One-Half (N ½) of the Northwest One-Fourth (NW 1/4) of the Northeast One-Fourth (NE 1/4) and the Southeast One-Fourth (SE 1/4) of the Northwest One-Fourth (NW 1/4) of the Northeast One-Fourth (NE 1/4) of Section 27, Township 6 South, Range 2 East in Franklin County, Illinois, approximately thirty (30) acres.

Justification For Adjusted Standards

23. For dissolved chlorides, Petitioner proposes an Adjusted Standard of 600 mg/L instead of a lower level that reflects the statistically valid range of chloride levels observed at the down gradient monitoring well G103. While 516 mg/L in well G103 was interpreted to be an outlier, it was done so in accordance with statistical reporting protocol. Given the potential for spatial and temporal variation, and bearing in mind there are no exposure routes for groundwater or health concerns associated with readings at 600 mg/L, a concentration of 600 mg/L is appropriate.

24. As to dissolved sulfates, Petitioner proposes an Adjusted Standard of 4,500 mg/L instead of a lower level that reflects the statistically valid range of sulfate levels observed in the

down gradient monitoring wells. The maximum sulfate concentration of 3,290 mg/L in well G104 was observed in January 2000. While sulfate concentrations in well G104 have never exceeded 3,000 mg/L since that time, the range of sulfate concentrations in well G104 has been highly variable, with a minimum concentration of 1,430 mg/L and an average of 2,161 mg/L over the 9-year period. Given the potential for spatial and temporal variation of sulfate data, and bearing in mind there are no exposure routes for groundwater and no health concerns exist at 4,500 mg/L, a concentration of 4,500 mg/L is appropriate.

25. The sole purpose of requesting Adjusted Standards is to obtain Certification of Closure from IEPA. The entire justification for this request is contained in the referenced Technical Reports and supporting data. The most compelling reasons for granting these Adjusted Standards are that there is no adverse impact on the environment or human health from this long since closed landfill and the options for treatment to reduce two constituents of negligible impact to the quality of groundwater in the area are cost-prohibitive. It is also important to consider that a request for remediation of the Landfill has never been made by IEPA.

**Requested Adjustments Will Not Result
In Adverse Environmental or Health Effects**

26. As previously stated and shown in more detail in the Technical Reports, no private water wells are used down gradient of this landfill. Furthermore, the Big Muddy River, as the receiving water, will not experience any negative impact due to migration of the landfill's chlorides and sulfates. As stated in the Technical Reports, the reasons for the extremely low impact to chloride and sulfate concentrations in the Big Muddy River are because the flow of the river is over 1.7 million times greater than the groundwater flow of chlorides emanating from the landfill and over

5 million times greater than the groundwater flow of sulfates emanating from the landfill. There is no practical scenario in which the groundwater down gradient of the landfill would be used for industrial, domestic, or agricultural use.

27. For greater detail on these issues, please review the Technical Reports' narratives for chlorides (Exhibits 1 and 3) and sulfates (Exhibit 2), particularly Section 4 entitled "Impact to Receiving Water" and Section 5 entitled "Toxicology". For supporting evidence of the narrative assessment on chlorides, see Exhibit 1 Appendix J entitled "USGS Surface-Water Daily Statistics for Illinois" including Table J-1 showing Average Flow calculations; Appendix K entitled "Chloride Concentration in the Big Muddy River" which includes an IEPA Chloride Data Table, Sample Location Map, and Sample Location Identity Table; Appendix L entitled "Calculators for Impact to Receiving Water"; and Appendix M entitled "World Health Organization Chloride in Drinking Water" (all within Exhibit 1). Note that any changes to these documents on chlorides, based on an IEPA review and comments to the LBG technical report, are provided in LBG's "*Response to IEPA Comments*" letter report (Exhibit 3).

28. For supporting evidence of the narrative assessment on sulfates, see Appendix A entitled "Sulfate Concentration in the Big Muddy River" which includes an IEPA Sulfate Data Table, Sample Location Map, and Sample Location Identity Table; Appendix B entitled "Sulfate Concentrations in Monitoring Wells"; and Appendix C entitled "World Health Organization, Sulfate in Drinking Water" (Exhibit 2). All of these documents, along with the sampling results at the landfill, show that Risley Landfill #2 meets the requirements for obtaining the Adjusted Standards requested.

**The Proposed Adjusted Standards and Existing Conditions
do not Warrant an Institutional or Environmental Land Use Control**

29. As clarified above in Paragraph 20 et. seq., the applicable groundwater classification is Class II General Resource Groundwater and not Class I Potable Resource Groundwater. Due to the fact that the groundwater is no longer classified as “potable” and considering that it would be highly unlikely, if not improbable, that future landowners would install a potable water well on the site, an institutional or environmental land use control prohibiting the use of groundwater for potable purposes is not warranted. Further, potable water from the County’s water system is available along the common shared roadway at the south end of the property.

30. Even more so, the existing conditions make it impracticable for any water wells to be installed either in unconsolidated or consolidated material. Per the requirements of 77 Ill. Adm. Code 920.60, the minimum casing requirement for a drilled water well in unconsolidated material is 20 feet. Considering that the thickness of the water-bearing unconsolidated earth material at the site is between five and 30 feet, the maximum open interval for a shallow water well would be only 10 feet. It is highly impractical that a registered water well driller (a requirement for drilling/installation of potable water wells) would recommend a water well in such a shallow setting. The minimum casing requirement for a drilled water well in consolidated materials is a depth of 40 feet below ground level (77 Ill. Adm. Code 920.70). Given the fact that the start of consolidated material beneath the property and surrounding area (i.e. bedrock shale) is 25 feet, the construction and installation of a water well under these conditions is highly impractical.

31. Furthermore, the City of Benton enacted an ordinance prohibiting the installation of drilling of wells to use groundwater as a potable water supply (Ordinance 05-16 enacted June 27, 2005). Given the geological and hydrogeological characteristics of the area, it is logical that such construction would be prohibited. Although this ordinance only applies within the City of Benson's corporate limits, the Risley Landfill #2 in close proximity and the same rationale would apply.

Granting Adjusted Standards is Consistent with Federal Law

32. The Board, acting for the State of Illinois, has the primary authority and responsibility to establish water quality standards for the groundwater at Risley Landfill #2 in accordance with the Federal Clean Water Act. 33 USC 1251, 40 CFR 131.4(a). The Clean Water Act sets the policy of Congress "to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution [and] to plan the development and use . . . of land and water resources . . ." 33 USC 1251. With respect to revised standards, the Clean Water Act anticipates that "The Governor of a State or the State water pollution control agency of such State shall from time to time . . . hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards." 33 USC 1313(c)(1). While this last cited provision appears to be applicable to navigable waters, it is clear from the Clean Water Act that each State has the authority and responsibility to designate appropriate uses for the waters of the State and the criteria to protect those uses.

33. The National Secondary Drinking Water Standards are non-enforceable guidelines regulating contaminants that may cause cosmetic effects or aesthetic effects in drinking water. Chlorides and sulfates are of this type of constituent. There are no specified enforceable federal

standards for chlorides or sulfates. However, for a discussion of these Federal Guidelines, please see Section 1.5 of the Technical Report on Chlorides (Exhibit 1).

34. The natural groundwater at the closed Risley Landfill #2 is not suitable for use as potable water as it is sporadic in occurrence and is significantly mineralized, thereby precluding its use for drinking water or other purposes. Furthermore, there are no private water wells located down gradient of the landfill. This groundwater in this area is not capable of supporting sustained yield of water given the limited horizontal area of the aquifer, the limited saturated thickness, and the very low hydraulic conductivity. As stated in the Technical Reports: "There is virtually no practical scenario in which the groundwater down gradient of the Landfill would be used for industrial, domestic, or agricultural use." Discussion of the receiving body, the Big Muddy River, is found in Paragraphs 14 through 16 above where it is explained that the reasons for the extremely low impacts to the chloride and sulfate concentrations in the Big Muddy River are because the flow is over 1.7 million and 5 million times greater, respectively, than the groundwater flow emanating from the landfill.

35. Furthermore, the provisions of Section 104.420 of the Board's regulations, 35 IAC 104.420, giving any person a right to request a hearing in this proceeding and the provisions of 35 IAC 104.408 regarding Publication of Notice advising any person of a right to request a public hearing, fully satisfy the mandate of the Clean Water Act with respect to public participation as found in 33 USC 1251(e). Proof of Notice of this Filing and the declaration of the rights thereunder for any person will be provided to the Board hereafter as publication in the newspaper of general circulation in the geographic area of the Risley Landfill.

36. For these reasons and those stated in the supporting documentation, the requested Adjusted Standards are protective of public health and welfare. The Adjusted Standards requested by Petitioner comply with all applicable Federal requirements.

Petitioner Does Not Waive Hearing

37. Proof of Notice of this Filing and the rights thereunder for any person to request a hearing will be provided as publication in the newspaper of general circulation in the geographic area of Risley Landfill #2. In the original Petition filed with the Board on September 5, 2007, Petitioner agreed to waive hearing in this matter as permitted by Section 104.406 *provided the Illinois EPA does not have a contrary recommendation to the requested adjusted standard* (emphasis added). It should be restated that Petitioner anticipates IEPA having a favorable recommendation as to the request for the Adjusted Standards but does *not* waive its right to a hearing. Further clarification of this issue on Waiver of Hearing shall be addressed in a Motion filed concurrently with this Amended Petition.

WHEREFORE, for all of the reasons stated above as more fully addressed in the Technical Reports prepared by Leggette Brashears & Graham and documents requested by the Board, the Petitioner respectfully requests that this honorable Board **GRANT** the Petitioner's request for an Adjusted Standard for chlorides in groundwater from 240 mg/L to 600 mg/L and an Adjusted Standard for sulfates in groundwater from 400 mg/L to 4,500 mg/L after finding that:

(1) The factors relating to the Petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general applicability regulation;

- (2) The existence of these factors justifies Adjusted Standards for chlorides and sulfates;
- (3) The requested Adjusted Standards will not result in environmental or health effects more adverse than those considered by the Board in adopting the rule of general applicability;
- (4) The Adjusted Standards are consistent with federal law; and
- (5) The Adjusted Standards are necessary and appropriate by American standards of justice and fairness in order to avoid extreme economic unreasonableness of implementation of any technical remedy to eliminate chlorides and sulfates that have virtually no impact on the receiving water body from this 8-acre landfill which stopped receiving municipal solid waste in 1988.

Respectfully submitted,

Nobel Risley

By: 

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Attorney for the Petitioner

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DATED: November 30, 2007

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For Nobel Risley's Landfill #2)	

MOTION TO ALLOW FILING OF LESS THAN NINE COPIES

NOW COMES the Petitioner, Nobel Risley Landfill #2 ("Risley"), by and through its attorney Penni S. Livingston, of the Livingston Law Firm, and hereby respectfully requests that the Illinois Pollution Control Board ("Board") allow it to file less than nine copies of its Amended Petition for Adjusted Standard as required by 35 Ill. Adm. Code 101.302(h).

Petitioner has electronically filed its Amended Petition concurrently with this Motion and will serve IEPA and IEPA Legal Division by electronic mail and either Federal Express or UPS delivery. The Amended Petition includes detailed technical documentation, permit information, and other documentation attached as exhibits ("Exhibits"). These Exhibits include approximately 1,000 pages of material. This level of detail was required because further investigation and clarification was requested by the Illinois Environmental Protection Agency ("IEPA") and this honorable Board. These Exhibits also contain oversize documents and color illustrations.

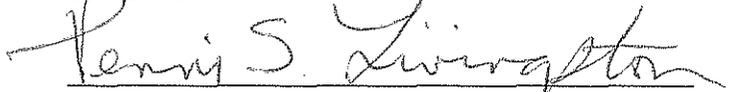
Petitioner has attached an original set and three copies of the Exhibits and submits that submitting six additional copies would be an unnecessary expense and a burden on the Board's resources. These Exhibits will be filed with the Board and served upon IEPA and IEPA Legal Division by either Federal Express or UPS delivery.

WHEREFORE, for the reasons stated in this Motion, Petitioner respectfully requests that it be allowed to submit an original set and three copies of the Exhibits to its Amended Petition instead of the nine copies otherwise required by the Board rules.

Respectfully submitted,

Nobel Risley

By: LIVINGSTON LAW FIRM



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**MOTION FOR RECONSIDERATION OF THE BOARD'S RULING ON THE ISSUE OF
WAIVER OF HEARING IN ITS NOVEMBER 1, 2007, ORDER**

NOW COMES the Petitioner, Nobel Risley Landfill #2 ("Risley"), by and through its attorney Penni S. Livingston, of the Livingston Law Firm, and hereby respectfully requests that the Illinois Pollution Control Board ("Board") reconsider its ruling on the issue of Waiver of Hearing in its November 1, 2007, Order based on Petitioner's original Petition for Adjusted Standard filed with this honorable Board on September 5, 2007 (Please see Exhibit 1).

1. In Paragraph 20 of Petitioner's original Petition for Adjusted Standard, Petitioner states the following (Please see Exhibit 2):

20. While proof of notice of this filing and the rights thereunder for any person to request a hearing will be provided as publication in the newspaper of general circulation in the geographic area of the Risley Landfill, Petitioner waives hearing in this matter as permitted by Section 104.406 *provided the Illinois EPA does not have a contrary recommendation to the requested adjusted standard* (emphasis added). The purpose of this requested adjusted standard is to obtain certification of closure of the Risley #2 landfill. *Petitioner anticipates Illinois EPA having favorable recommendation as to the request for the adjusted standard* (emphasis added).

2. Petitioner's sole reason for considering a waiver of hearing in its original Petition for Adjusted Standard was to help expedite the process of obtaining Certification of Closure. At the time of filing, Petitioner reasonably believed that the Illinois Environmental Protection Agency ("IEPA" or "Agency") would provide a favorable recommendation, thereby eliminating the need for

a hearing to address any concerns about the requested Adjusted Standards. Since that time, and after lengthy and thorough conversations with IEPA and IEPA Legal Division, not only has IEPA requested additional information, the Agency has suggested that an Adjusted Standard for Sulfates also be requested before this honorable Board.

3. All things considered, it would be inappropriate for Petitioner to waive hearing. In Petitioner's Amended Petition for Adjusted Standard (filed concurrently with this Motion), Petitioner clarifies its position on this Waiver of Hearing to state that it does *not* wish to waive its right to a hearing on the Amended Petition.

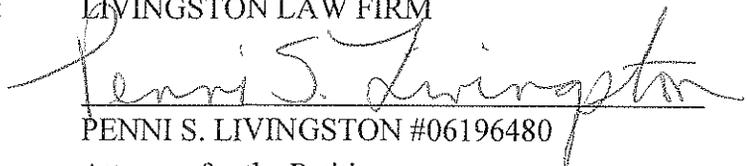
4. Allowing the parties to engage in candid conversation before this honorable Board so that either Petitioner or the Agency can raise and resolve concerns related to Petitioner's request for Adjusted Standards will allow for judicial economy to prevail in this matter.

WHEREFORE, for the reasons stated in this Motion, Petitioner respectfully requests that this honorable Board reconsider its ruling on the issue of Waiver of Hearing as stated in the November 1, 2007, Order of the Board, to allow Petitioner, in addition to the Agency or other interested person, the opportunity to request a hearing on any Petition deficiencies.

Respectfully submitted,

Nobel Risley

By: LIVINGSTON LAW FIRM



PENNI S. LIVINGSTON #06196480

Attorney for the Petitioner

penni@livingstonlaw.biz

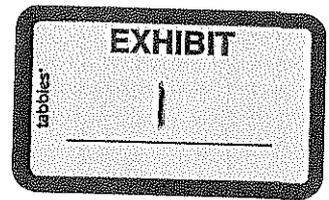
5701 Perrin Road

Fairview Heights, IL 62208

Telephone 618-628-7700

Fax 618-628-7710

DATED: November 30, 2007



4. Under Section 104.406(h) of the Board's regulations (35 Ill. Adm. Code 104.406(h)) and justification for the relief sought, the Board requests the following information:

While the petition states that groundwater beneath the landfill and down gradient of the landfill does not presently serve as a source of drinking water, there is no provision to include an institutional control prohibiting the use of groundwater beneath the site for potable use. The Board has required Environmental Land Use Controls (ELUCs) prohibiting the use of groundwater for potable purposes in similar adjusted standards. *See, e.g. Petition by Hayden Wrecking Corporation for an Adjusted Standard from 35 Ill. Adm. Code 620.410(a)*, AS 04-3, slip op. at 20 (Jan. 6, 2005) and *Petition of the Village of Bensenville for an Adjusted Standard from 35 Ill. Adm. Code 620.410 Regarding Chloride*, AS 05-2, slip op at 17 (Oct. 20, 2005). The Landfill must clarify whether it has already recorded an ELUC specific to the site to prohibit the use of groundwater at the site for potable purposes. If not, the Landfill must address whether any adjusted standard requires an institutional control or Environmental Land Use Control.

< The Board again notes that the Landfill has waived hearing in this proceeding unless the Agency or an interested person requests one, so that petition deficiencies cannot be addressed at hearing. Accordingly, the Board directs the Landfill to address these informational deficiencies by filing an amended petition on or before December 3, 2007. Even if the Landfill has already provided the Agency with some or all of the requested information since the September 5, 2007 filing of the petition, that information must be filed with the Board to allow the Board to fulfill its statutory obligations. If an amended petition curing the noted deficiencies is not timely filed, this matter may be subject to dismissal. >

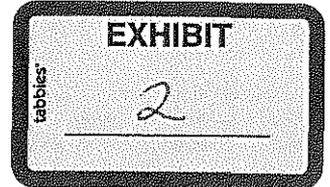
As stated above, the Agency Recommendation is due to be filed November 19, 2007 under the Board's October 4, 2007 order. If the Landfill needs additional time to file an amended petition, or the Agency needs additional time to file its Recommendation, the Board directs the parties to apply to the hearing officer for any extension of time, and grants the hearing officer authority to extend the deadlines set in the Board orders issued today and October 4, 2007.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2007, by a vote of 4-0.

A handwritten signature in cursive script that reads "John T. Therriault".

John T. Therriault, Assistant Clerk



Waiver of Hearing

20. While proof of notice of this filing and the rights thereunder for any person to request a hearing will be provided as publication in the newspaper of general circulation in the geographic area of the Risley Landfill, Petitioner waives hearing in this matter as permitted by Section 104.406 provided the Illinois EPA does not have a contrary recommendation to the requested adjusted standard. The purpose of this requested adjusted standard is to obtain certification of closure of the Risley #2 Landfill. Petitioner anticipates Illinois EPA having a favorable recommendation as to the request for the adjusted standard.

WHEREFORE, for all of the reasons stated above as more fully addressed in the Technical Report entitled: "Technical Justification for an Adjusted Standard for Chlorides in Ground-water" prepared by Leggette Brashears & Graham, the Petitioner respectfully requests that the Board **GRANT** the Petitioner's request for an Adjusted Standard for chlorides in groundwater from 240 mg/L to 600 mg/L after finding that:

- (1) The factors relating to the Petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general applicability regulation;
- (2) The existence of these factors justifies an adjusted standard;
- (3) The requested standard will not result in environmental or health effects more adverse than those considered by the Board in adopting the rule of general applicability;
- (4) The adjusted standard is consistent with federal law; and
- (5) The adjusted standard is necessary and appropriate by American standards

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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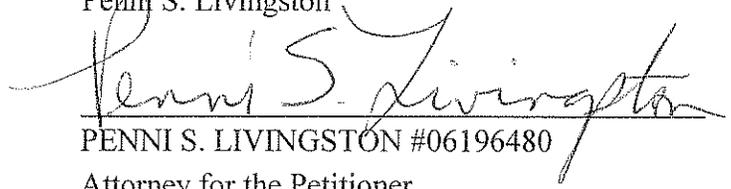
AS 08-003
(Adjusted Standard-Water)

PROOF OF SERVICE

I, Penni S. Livingston, an attorney, hereby certify that I caused the attached pleadings to be served upon all parties listed on the attached Notice of Filing via electronic mail and either Federal Express or UPS delivery, on November 30, 2007.

Respectfully submitted,

Penni S. Livingston



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Attorney for the Petitioner

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