

ILLINOIS POLLUTION CONTROL BOARD
June 17, 1998

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)	

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

Currently pending before the Board are 21 administrative citations issued against ESG Watts, Inc. (ESG Watts) by Sangamon County. These administrative citations have been consolidated by the Board. On June 8, 1998, the parties filed a "Stipulation and Settlement Agreement" which resolves 20 of the 21 consolidated administrative citations. On June 12, 1997, Sangamon County filed a motion to dismiss the remaining administrative citation, AC 94-95, which was not addressed in the stipulation.

Under Section 31.1 of the Illinois Environmental Protection Act (Act), 415 ILCS 5/31.1 (1996), the Illinois Environmental Protection Agency or a unit of local government may, at their option, enforce Sections 21(o) and (p) of the Act (415 ILCS 5/21(o), (p)) by issuing an administrative citation to a violator. The administrative citations issued to ESG Watts by Sangamon County involve violations of several subdivisions of Section 21(o), which provides in relevant part:

No person shall:

o. Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

1. refuse in standing or flowing waters;

* * *

5. uncovered refuse remaining from any previous operating day or at the conclusion of any operating day, unless authorized by permit;

* * *

9. deposition of refuse in any unpermitted portion of the landfill; [or]

* * *

12. failure to collect and contain litter from the site by the end of each operating day[.]

In the stipulation, “[f]or the purposes of settlement only,” ESG Watts admits 40 of the violations charged in the various administrative citations. Sangamon County for its part agrees, “for the purposes of settlement only,” to dismissal of seven charged violations. The disposition of the violations charged in the various administrative citations is set forth in Table 1, below.

Table 1.

Docket Number	Violations Admitted	Violations Dismissed
AC 94-28	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-29	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-48	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-49	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-50	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-51	415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-52	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-58	415 ILCS 5/21(o)(5)	
AC 94-59	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5)	
AC 94-60	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5)	

AC 94-61	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	
AC 94-81	415 ILCS 5/21(o)(5)	
AC 94-82	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5)	415 ILCS 5/21(o)(12)
AC 94-90	415 ILCS 5/21(o)(5)	415 ILCS 5/21(o)(12)
AC 94-91	415 ILCS 5/21(o)(5)	
AC 95-8	415 ILCS 5/21(o)(5)	415 ILCS 5/21(o)(9)
AC 95-21	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5) 415 ILCS 5/21(o)(12)	415 ILCS 5/21(o)(9)
AC 95-28	415 ILCS 5/21(o)(5)	415 ILCS 5/21(o)(9)
AC 95-29	415 ILCS 5/21(o)(1) 415 ILCS 5/21(o)(5)	415 ILCS 5/21(o)(9) 415 ILCS 5/21(o)(12)

In the concluding sentence of the stipulation, the parties agree that “no hearing is necessary in this matter.” The Board construes this statement as an agreed motion to dismiss the petitions for review of the administrative citations listed in the first column of Table 1. This motion is granted.

Based upon the stipulation, the Board finds that ESG Watts has committed the violations listed in the second column of Table 1, and dismisses the violations listed in the third column of Table 1. Section 31.1(d)(1) of the Act (415 ILCS 5/31.1(d)(1) (1996)) requires the Board to impose a penalty upon making a finding of violation. Section 42(b)(4) of the Act (415 ILCS 5.42(b)(4) (1996)) sets the penalty in an administrative citation proceeding at \$500 per violation, plus hearing costs. Since these citations are being resolved without a hearing, the penalty will be \$500 per violation, or \$20,000. Sangamon County acknowledges in the stipulation that it has already received this payment.

The Board grants Sangamon County’s motion to dismiss AC 94-95.

This opinion constitutes the Board’s finding of fact and conclusions of law in this matter.

ORDER

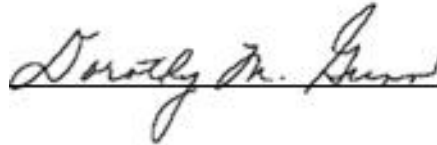
1. The Board finds, based upon the stipulation, that ESG Watts has committed the violations of Section 21(o) of the Act listed in the second column of Table 1.
2. ESG Watts is assessed a penalty in the statutory amount of \$20,000 (40 violations at \$500 each). In the stipulation, Sangamon County acknowledges that it has already received payment of this amount.
3. The violations listed in the third column of Table 1 are dismissed.

4. The petitions for review of the administrative citation proceedings listed in the first column of Table 1 are hereby dismissed and those dockets are closed.
5. AC 94-95 is dismissed and the docket closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions of Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 17th day of June 1998 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in black ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board