

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 29 2005

STATE OF ILLINOIS
Pollution Control Board

ESG WATTS, INC.,
Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Respondent.

PCB No. 06-06
(Permit Appeal)

NOTICE OF FILING

TO: Division of Legal Counsel
Illinois EPA
1021 North Grand Avenue East
POBox 19276
Springfield, IL 62794-9276

Dorothy M. Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 N. Randolph, 11-500
Chicago, IL 6060

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the following document, true and correct copies of which are herewith served upon you: **MOTION TO FILE AMENDED PETITION FOR HEARING INSTANTER and PETITION FOR HEARING.**

Dated: August 26, 2005

Respectfully submitted by,



Larry A. Woodward, Attorney for Petitioner

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 29 2005

STATE OF ILLINOIS
Pollution Control Board

ESG WATTS, INC.,
Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Respondent.

PCB No. 06-06
(Permit Appeal)

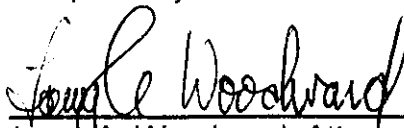
Motion to File Amended Petition for Hearing Instante

NOW COMES Petitioner, ESG WATTS, INC., acting by and through its Corporate Counsel Larry A. Woodward, and moves the Board for Leave to File its Amended Petition for Hearing instante pursuant to 35 IllAdmCode §101.514 and for its cause states as follows:

1. That the Board's order required ESG to definitively state when it was served with the Agency's decision.
2. That upon investigation counsel could not determine the exact date of service and, therefore, on August 8, 2005 requested pursuant to the Freedom of Information Act a copy of the return receipt delivered to the Agency.
3. Counsel received the Agency's response late on August 18, 2005, and was away from work on August 19, 2005.
4. This inability to state definitely the date upon which ESG received service of the Agency's decision delayed the submittal of the Amended Petition for Hearing.
5. This motion is not made for the purpose of delay and is submitted in the interests of justice and a full hearing of the legitimate concerns of ESG with the Agency's decision.

WHEREFORE, ESG Watts, Inc. prays that the Board grant it leave to file its Amended Petition for Hearing instante.

Respectfully submitted by,


Larry A. Woodward, Attorney for Petitioner

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 29 2005

STATE OF ILLINOIS
Pollution Control Board

ESG WATTS, INC.,
(Taylor Ridge/Andalusia Landfill)
an Iowa Corporation,
Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Respondent.

PCB No. 06-06
(Permit Appeal)

AMENDED PETITION FOR HEARING

NOW COMES Petitioner, ESG WATTS, INC., an Iowa corporation, by and through its attorney, Larry A. Woodward, and for its Petition for Hearing states as follows:

1. That on December 7, 2001 and as supplemented on August 26, 2002, January 24, 2003; October 1, 2003; March 29, 2004; and April 15, 2005 Petitioner (hereinafter referred to as "ESG") submitted an application for closure/post-closure care permit and significant modification permit for the Taylor Ridge/Andalusia Landfill pursuant to 35 IllAdmC §§ 807.101 *et seq.* or §§811.101 *et seq.* and that the Respondent (hereinafter referred to as "IEPA") issue a closure/post-closure care permit and significant modification permit for the Taylor Ridge/Andalusia Landfill in accordance therewith.

2. That by letter dated May 26, 2005 (and received on May 31, 2005, by ESG as shown by Exhibit A hereto) the IEPA responded to the application by approving same in part and by denying approval of the proposed groundwatering plan, the proposed closure and post-closure care cost estimates, concerning groundwater monitoring, the proposal to delay by two (2) years the submittal of corrective action plan required by Condition No. 24 of Attachment A to Supplemental Permit No. 2001-132-SP; the proposed closure schedule; and the request for significant modification permit pursuant to 35 IllAdmCode §811.104.

3. That the reasons given by the IEPA for said denials are not supported by the record, are not authorized by law, and are designed to harass and intentionally harm ESG for discriminatory reasons.

4. In addition and more specifically, the denial in part is improper, arbitrary, capricious, and unlawful for the following reasons:

- a. the denial of the groundwater monitoring plan is based upon the EPA's adherence to an arbitrary requirement for monitor well spacing that has no

bearing to the conditions present at the ESG Landfill and is not based upon or supported by any scientific fact;

- b. the denial of the proposed closure schedule and then requiring the relocation of waste to be completed by September 15, 2005 constitutes an impossible condition not supported by fact and incapable of being met with any allocation of resources available;
 - c. Paragraph 7 of Section D Waste Relocation is ambiguous and fails to provide the necessary guidance as to when ESG is obligated to have final cover in place and is, therefore, void for vagueness; and
 - d. the refusal to address the application for significant modification permit is not in accordance with 35 Ill Adm Code §811.110(d) (1) and (@) in that ESG's application contained the information required by 35 Ill Adm Code §812.114 and in that 35 Ill Adm Code §811.110(d)(2) expressly states that a modification of a closure permit constitutes a significant modification for purposes of 35 Ill Adm Code 813 Subpart B.
5. ESG hereby reserves to itself the right to present additional grounds for reversal of the IEPA's permit denial as they may appear during the course of this appeal.

WHEREFORE, ESG respectfully requests that the Board grant it a hearing in this matter and determine that the application as supplemented ESG is approved in all its particulars pursuant to 415 ILCS 5/39 AND 5/40.

Respectfully submitted by,

Larry A. Woodward, Attorney for Petitioner
525 17th Street
Rock Island, IL 61201
309-788-7700

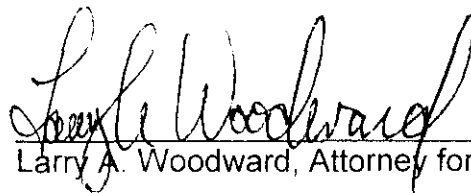
CERTIFICATE OF SERVICE

I hereby certify that I did on the 26th day of August, 2005, on or before 6:00 p.m., serve the following instruments entitled NOTICE OF FILING, MOTION TO FILE AMENDED PETITION INSTANTER and AMENDED PETITION FOR HEARING by placing same in a sealed envelope addressed as follows:

Division of Legal Counsel
Illinois EPA
1021 North Grand Avenue, East
Springfield, IL 62794-9276

Dorothy Gunn, Clerk
Pollution Control Board
State of Illinois Center
Suite 11-500
100 West Randolph
Chicago, IL 60601

and by depositing same in the United states mail in Rock island, Illinois on the 26th day of August, 2005, with postage fully prepaid along with ten copies thereof to said Dorothy Gunn.



Larry A. Woodward, Attorney for Petitioner

03 SITE NO. 1618000001
SITE NAME Watts LF
CATEGORY Permits

7002 3150 0000 1253 0818

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

2001-459 5-26-05 CRP

33	Postage	\$
	Certified Fee	2.30
	Return Receipt Fee (Endorsement Required)	1.75
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Sent To
Street, Apt., or PO Box #
City, State, ZIP+4®

ESG Watts, Inc.
Attn: Mr. Thomas Jones
8400 77th Street West
Taylor Ridge, Illinois 61284

PS Form 3811, February 2004

Postmark: SPRINGFIELD IL 61802 MAY 26 2005

RELEASEABLE

JUN 06 2005

REVIEWER N

1618000001 - Watts LF

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X Paul Green <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: 2001-459	B. Received by (Printed Name) P. Green C. Date of Delivery 5-31-05
ESG Watts, Inc. Attn: Mr. Thomas Jones 8400 77th Street West Taylor Ridge, Illinois 61284	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article (Transit)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
7002 3150 0000 1253 0818	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/524-3300

May 26, 2005

Certified Mail

7002 3150 0000 1253 0818

ESG Watts, Inc.
Attn: Mr. Thomas Jones
8400 77th Street West
Taylor Ridge, Illinois 61284

Re: 1618000001 -- Rock Island County
Watts Landfill
Permit No. 1972-72
Supplemental Permit No. 2001-459-SP
Log No. 2001-459
Permit File

Dear Mr. Jones:

Supplemental permit is hereby granted to ESG Watts, Inc. as owner and operator, conditionally approving modification of an existing solid waste landfill all in accordance with the application and plans prepared by Bryan C. Johnsrud, P.E., formerly of Andrews Environmental Engineering, Inc. and Sean C. Chisek, P.E., of Andrews Environmental Engineering, Inc. and signed and sealed by Mr. Johnsrud on December 7, 2001. Final plans, specifications, application and supporting documents as submitted and approved shall constitute part of this permit and are identified on the records of the Illinois Environmental Protection Agency ("Illinois EPA"), Bureau of Land by the permit number(s) and log number designated in the heading above.

The application approved by Supplemental Permit No. 2001-459-SP consists of the following documents:

<u>DOCUMENT</u>	<u>DATE OF DOCUMENT</u>	<u>DATE RECEIVED</u>
Original Application Log No. 2001-459	December 7, 2001	December 11, 2001
Waiver	March 8, 2002	March 8, 2002 (facsimile)
Waiver	April 30, 2002	May 2, 2002
Waiver	June 17, 2002	June 18, 2002

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

Additional Information	August 26, 2002	August 26, 2002
Waiver	August 28, 2002	August 28, 2002
Waiver	November 1, 2002	November 1, 2002
Waiver	November 22, 2002	November 22, 2002
Waiver	January 15, 2003	January 15, 2003
Additional Information	January 24, 2003	January 27, 2003
Waiver	March 14, 2003	March 14, 2003
Waiver	March 28, 2003	April 2, 2003
Waiver	April 29, 2003	April 30, 2003
Waiver	June 12, 2003	June 12, 2003
Waiver	August 13, 2003	August 13, 2003
Waiver	September 15, 2003	September 15, 2003
Additional Information	October 1, 2003	October 2, 2003
Waiver	November 3, 2003	November 3, 2003
Waiver	December 19, 2003	December 23, 2003
Waiver	February 26, 2004	February 26, 2004
Waiver	March 29, 2004	March 30, 2004
Additional Information	March 29, 2004	March 30, 2004
Waiver	May 12, 2004	May 14, 2004
Waiver	June 11, 2004	June 15, 2004
Waiver	July 30, 2004	July 30, 2004

Waiver	September 7, 2004	September 9, 2004
Waiver	November 9, 2004	November 12, 2004
Waiver	January 7, 2005	January 11, 2005
Waiver	April 7, 2005	April 7, 2005
Additional Information	April 15, 2005	April 15, 2005
Waiver	May 12, 2005	May 16, 2005

Supplemental Permit No. 2001-459-SP approves the following:

1. Revised closure and post-closure care plan to incorporate the waste re-location plan;
2. Revised surface water management plan;
3. Construction Quality Assurance plan; and
3. Expansion of the facility boundaries by 14.593 acres to accommodate the surface water retention pond.

Supplemental Permit No. 2001-459-SP does not approve the following:

1. The proposed groundwater monitoring plan;
2. The proposed closure and post-closure care cost estimates, concerning groundwater monitoring;
3. The proposal to delay by two additional years the submittal of corrective action plan required by Condition No. 24 of Attachment A to Supplemental Permit No. 2001-132-SP. (The above referenced corrective action plan was required to be submitted to the Illinois EPA in the form of supplemental permit application by July 15, 2002.) or
4. The proposed closure schedule.

You have failed to provide proof that approving the above mentioned proposals would not result in violations of the Illinois Environmental Protection Act (Act) and the referenced sections of 35 Illinois Administrative Code (hereafter "35 Ill. Adm. Code"). Section 39(a) of the Act [415 ILCS 5/39(a)] requires the Illinois EPA to provide the applicant with specific reasons for the denial of permit. The following reasons are given:

1. Pursuant to 35 Ill. Adm. Code 807.622(d)(2), the post-closure care cost estimate must, at a minimum represent the number of monitoring points, the frequency of sampling, and the monitored parameters' cost per parameter per sampling event. The cost estimate for semi-annual monitoring after 5 years does not meet this requirement as quarterly monitoring is required. Cost estimates may only reflect semi-annual monitoring when such a monitoring schedule is approved by permit.
2. Pursuant to 35 Ill. Adm. Code 807.502, the operator of a waste management site shall close in a manner which minimizes the need for further maintenance and controls, minimizes or eliminates release of waste constituents, leachate, contaminated rainfall or waste decomposition products to the groundwater or surface water or environment to the extent necessary to prevent threats to human health or the environment. The proposal to delay two additional years before submitting a corrective action assessment for current groundwater contamination due to the facility does not meet this requirement. Further delays will allow continued migration of contamination to the waters of the state.
3. Pursuant to 35 Ill. Adm. Code 807.502, the operator of a waste management site shall close in a manner which minimizes the need for further maintenance and controls, minimizes or eliminates release of waste constituents, leachate, contaminated rainfall or waste decomposition products to the groundwater or surface water or environment to the extent necessary to prevent threats to human health or the environment. The proposed groundwater monitoring well locations do not meet this requirement. It has not been demonstrated that the proposed monitoring well locations will detect contamination from the entire waste source.
4. Pursuant to 35 Ill. Adm. Code 807.502, the operator of a waste management site shall close in a manner which minimizes the need for further maintenance and controls, minimizes or eliminates release of waste constituents, leachate, contaminated rainfall or waste decomposition products to the groundwater or surface water or environment to the extent necessary to prevent threats to human health or the environment. The proposed closure schedule that allows 108 weeks to complete closure does not meet this requirement. The application, other than citing financial constraints of the operator, has not demonstrated that all necessary steps have been taken or will be taken to prevent threats to the human health and the environment from the unclosed landfill.

Pursuant to Section 39(a) of the Act and 35 Ill. Adm. Code 807.210, this permit is issued subject to the development, operating and reporting requirements for solid waste landfills in 35 Ill. Adm. Code, Part 807, the standard conditions attached hereto, and the following special conditions. In case of conflict between the permit application and these conditions (both standards and special), the conditions of this permit shall govern.

As the owner and operator of an existing municipal solid waste landfill (MSWLF) that accepted waste after September 18, 1997, ESG Watts, Inc. is responsible for providing a permit

application that demonstrates compliance with 35 Ill. Adm. Code 814 Subpart C, pursuant to 35 Ill. Adm. Code 814.104. Therefore, Log No. 2001-459 was reviewed against the applicable requirements of 35 Ill. Adm. Code Part 807 and Part 258 of the Code of Federal Regulations (CFR), pursuant to 35 Ill. Adm. Code 814.107(a), 814.101(b) and Section 814, Appendix A as well as against the applicable requirements of 35 Ill. Adm. Code, Parts 811, 812, and 814 Subpart C. Please be aware that satisfying the requirements of 35 Ill. Adm. Code Part 807 and 40 CFR Part 258, that are related to closure, post-closure care and financial assurance, will not ensure that the facility complies fully with the applicable requirements of 35 Ill. Adm. Code Parts 811 and 812. This supplemental permit does not constitute a partial approval of the significant modification required by 35 Ill. Adm. Code 811.104.

A. MONITORING

1. Groundwater monitoring shall be conducted in accordance with Attachments A and B to Supplemental Permit No. 2001-132-SP and is subject to the conditions therein.
2. The Illinois EPA reserves the right to require the installation and monitoring of a groundwater monitoring system, to require analyses for certain parameters and to alter parameters as necessary to fulfill the intent and purpose of the Act.
3. During the post-closure care period, water quality records shall be maintained at the office of the site operator and shall be reviewed quarterly. A water quality report shall be submitted quarterly. If the owner/operator or the Illinois EPA's Bureau of Land determines that adverse trends are developing, further investigation is to be performed. If corrective action becomes necessary, a plan is to be developed by the operator and submitted to the Permit Section, Bureau of Land for approval.
4. During the post-closure care period, the owner and operator shall monitor gas, water and settling and shall take whatever remedial action is necessary to abate any gas, water or settling problems which appear during that time. Post-closure groundwater monitoring shall be conducted and reported to the Illinois EPA on a quarterly basis for the monitoring wells and parameters identified in Attachment A to Supplemental Permit No. 2001-132-SP.

B. CLOSURE AND POST-CLOSURE CARE

1. Upon completion of closure activities, the operator shall notify the Illinois EPA that the site has been closed in accordance with the approved closure plan utilizing the Illinois EPA's "Affidavit for Certification of Completion of Closure of Non-Hazardous Waste Facilities."
2. Financial assurance shall be maintained by the operator in accordance with 35 Ill. Adm. Code, Subtitle G, Part 807, Subpart F. Supplemental Permit No. 2001-132-SP, issued August 2, 2001 approved total cost estimate of \$2,031,549.00 for closure and post-closure

care of the landfill. Biennial revision to the cost estimates submitted in application Log No. 2001-459 is not approved. The operator shall file revised cost estimates for closure and post-closure care addressing the deficiencies noted in this permit on or before November 1, 2005. The revised cost estimates shall be submitted in the form of an application for supplemental permit.

3. Final cover is to be placed in accordance with the construction quality assurance plan (CQA plan) approved in Supplemental Permit No. 2001-459-SP. The CQA plan also includes requirements for the inspection and verification of the existing final cover.
4. Existing final cover shall be tested and verified in accordance with the CQA Plan approved in Supplemental Permit No. 2001-459-SP. Testing and verification of the final cover shall be completed prior to the submittal of cost estimates required by Condition No. B.2 of this supplemental permit. In the event areas not meeting the final cover requirements of the CQA plan are identified, the operator shall make appropriate revisions to the cost estimates required by Condition B.2 of this supplemental permit.
5. If necessary, the soil over the entire planting area shall be amended with lime, fertilizer and/or organic matter. On sideslopes, mulch or some other form of stabilizing material is to be provided to hold seed in place and conserve moisture.
6. This site is subject to a minimum post-closure care period of 30 years. The post-closure care period has not begun.
7. During the post-closure care period, corrective action shall be taken if problems, including but not limited to the following, occur:
 - ponding
 - cracks in final cover greater than one inch wide
 - gas problems
 - odor problems
 - dead or stressed vegetation
 - vegetation with taproots growing in areas not so designed
 - vector problems
 - leachate popouts or seeps
8. Inspections of the closed landfill shall be conducted quarterly. Records of field investigations, inspections, sampling and corrective action taken are to be maintained at the site and made available to Illinois EPA personnel. During the post-closure care period, these records are to be maintained at the office of the site operator.

9. When the post-closure care period has been completed, the operator shall notify the Illinois EPA utilizing the Illinois EPA's "Affidavit for Certification of Completion of Post-Closure Care for Non-Hazardous Waste Facilities."

C. LANDFILL GAS MANAGEMENT/MONITORING

1. Landfill gas shall be monitored at probes both inside and outside the waste boundary for the following parameters:
 - a. Methane;
 - b. Pressure;
 - c. Nitrogen*;
 - d. Oxygen; and
 - e. Carbon Dioxide

*Note: For routine monitoring, Nitrogen may be reported as net remaining volume fraction after the other measured constituents have been accounted for.
2. Ambient air monitoring devices described in Application Log No. 2001-459 shall be used to test air downwind of the landfill for methane.
3. All buildings within the facility boundaries shall be monitored continuously for methane.
4. As proposed in Application Log No. 2001-459, until the landfill gas management system is fully operational sampling and testing of gas monitoring probes and ambient air monitoring shall be performed at least monthly. After the waste re-location activities have been completed and the landfill gas management system is fully operational the monitoring frequency may be reduced to yearly.
5. In the event of any of the occurrences listed below, the operator shall within 180 days of occurrence shall submit a permit application to the Illinois EPA either proposing a revision to the gas collection/management system or demonstrating that the landfill is not the cause of the occurrence:
 - a. A methane concentration greater than 50 percent of the lower explosive limit (LEL) in air is detected in any of the below ground monitoring devices outside the waste boundary;
 - b. A methane concentration greater than 50 percent of the LEL in air is detected during ambient air monitoring;

- c. A methane concentration greater than 25 percent of the LEL in air is detected in any building on or near the facility;
 - d. Malodors attributed to the unit are detected beyond the facility boundary; or
 - e. Stressed vegetation in areas greater than 100 square feet on the final cover due to landfill gas migration.
6. This permit does not relieve the Permittee of the responsibility of complying with the provisions of the State of Illinois Rules and Regulations, 35 Ill. Adm. Code Subtitle B, Air Pollution Control, Chapter 1. The Illinois EPA's Bureau of Air (BOA) - Division of Air Pollution Control - Permit Section, has indicated that the waste relocation project approved in this supplemental permit requires an Air Pollution Control Construction Permit, pursuant to 35 Ill. Adm. Code 201.142, in regard to the re-installation of the gas collection and control system associated with this project. In addition, the source may be subject to other reporting and permitting requirements through the Illinois EPA's BOA. If you have any questions regarding these requirements, contact the Illinois EPA's BOA - Division of Air Pollution Control - Permit Section at 217/782-2113.

D WASTE RELOCATION

- 1. The waste relocation shall be carried out in accordance with the Waste Relocation Plan proposed in application Log No. 2001-459 and shall involve moving approximately 34,100 cubic yards of waste from a 5.9 acre area above the maximum permitted height of the landfill to areas of the landfill that are below the permitted grades. Both these areas are shown on the drawing titled "Waste Relocation Plan" submitted in addendum dated October 1, 2003 to application Log No. 2001-459.
- 2. Relocation of waste (including application of at least 1-foot of clean soil over all disturbed areas) shall be completed by September 15, 2005.
- 3. The permittee shall designate an independent third party contractor as the Construction Quality Assurance (CQA) Officer(s) to oversee waste relocation activities. The CQA Officer(s) shall be an Illinois Certified Professional Engineer who is independent from and not under the control of or influence of the operator, any employee of the operator, or any other corporation company or legal entity that is a subsidiary, affiliate, parent corporation or holding corporation associated with the operator.
- 4. The CQA officer(s) shall be personally present during all the waste relocation activities. If the CQA officer(s) is unable to be present, the CQA officer shall provide in writing, reasons for his absence, a designation of a person who shall exercise professional judgment in carryout the duties of a CQA officer as the designated CQA officer-in-

absentia, and a signed statement that the CQA officer assumes full personal responsibility for all inspections performed and reports prepared by the CQA officer-in-absentia during the absence of the CQA officer.

5. Upon completion of waste relocation activities the CQA officer(s) shall submit a supplemental permit application containing the following information to the Illinois EPA:
 - a. A certification by the CQA officer(s) that the waste relocation has been completed in accordance with the approved plan;
 - b. A certification by the CQA officer(s) that all the areas affected by the waste relocation activities are covered by at least 1-foot of clean soil; and
 - c. As-built drawings of the facility;

The supplemental permit required by this condition shall be submitted no later than November 1, 2005.

6. Asbestos debris encountered during waste relocation activities shall be managed in accordance with the National Emission Standards for Hazardous Air Pollutants (NESHAPS) regulations.
7. All the areas affected by waste relocation activities shall receive a final cover that meets the requirements of 35 Ill. Adm. Code 811.314 and the construction quality assurance provided in application Log No. 2001-459. The low permeability layer shall consist of 3-foot thick compacted earth layer with permeability no more than 1×10^{-7} cm/sec. The final protective layer shall cover the entire low permeability layer and shall not be less than 3-feet thick. The final protective layer shall consist of soil material capable of supporting vegetation.
8. The active areas shall consist of no more than two working faces at one time; one in the area where waste is being excavated (excavation face) and the other in the area where waste is being deposited (fill face). The size of each of these working faces shall be no more than 10,000 square feet each. The active areas shall be shifted from the original working faces laterally until waste relocation has been completed.
9. The operator shall make available and maintain the equipment required for waste relocation and application of daily cover. If breakdowns occur backup equipment shall be brought to the site.
10. Waste relocation activities shall be confined to daylight hours. At the end of each day the excavation face as well as the fill face shall be covered with:

- a. Clean soil at least six (6) inches thick (i.e., conventional daily cover)
 - b. Polyethylene geomembranes;
 - c. Polypropylene geomembranes;
 - d. Woven and non-woven geotextiles; or
 - e. Tarps.
11. The materials listed in C.10(b) through (e) are approved as alternate material for daily cover. Use of these materials are subject to the following conditions:
- a. Areas upon which alternate daily cover material has been used must be covered with either conventional daily cover or additional waste within six days;
 - b. Conventional daily cover shall be used if weather or other conditions adversely affect the ability of the alternate cover materials to prevent problems with blowing litter, fire, odors, or vectors;
 - c. All the alternate daily covers shall be anchored adequately to prevent wind damage. If the alternate daily cover is torn during or after placement they must be repaired immediately or the damaged area must be covered with conventional daily cover.
12. All waste must be relocated to the fill face immediately upon excavation. Soils encountered during waste excavation shall not be stockpiled or used as daily cover. Furthermore, no refuse uncovered during waste excavation shall be left exposed overnight.
13. Temporary drainage control berms shall be placed up gradient and down gradient of the active areas to divert stormwater around the work area. Stormwater that comes in contact with waste is leachate and shall be managed as such.
14. The operator shall not conduct the waste relocation activities in a manner which results in any of the following:
- a. refuse in standing or flowing waters;
 - b. leachate flows entering the waters of the state;
 - c. leachate flows exiting the landfill confines ;

- d. uncovered refuse at the conclusion of any operating day; and
 - e. failure to collect and contain litter at the end of each operating day.
16. The operator shall implement methods for controlling dust so as to prevent wind dispersal of particulate matter off-site.
 17. The waste disposal operations shall be conducted so as to minimize the level of equipment noise audible outside the facility.

E. OTHER CONDITIONS

1. Any modification to the facility shall be the subject of an application for supplemental permit for site modification submitted to the Illinois EPA.
2. Current, valid Prior Conduct Certification pursuant to 35 Ill. Adm. Code Part 745 is required for all operators of landfills that require a permit.
3. Site surface drainage shall be managed in accordance with the approved drainage control plan detailed in application Log No. 2001-459.
4. Site surface drainage, during waste relocation and after the site is closed, shall be such that no adverse effects are encountered by adjacent property owners.
5. The permittee shall obtain a Section 404 Water Quality Certification as necessary from the Illinois EPA's Bureau of Water.
6. The original and two (2) copies of all certifications, logs, reports, plan sheets and groundwater monitoring chemical analysis forms which are required to be submitted to the Illinois EPA by the permittee should be mailed to the following address:

Illinois Environmental Protection Agency
Permit Section
Bureau of Land -- #33
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

7. This permit is subject to review and modification by the Illinois EPA as deemed necessary to fulfill the intent and purpose of the Act, and all applicable environmental rules and regulations.

Except as modified in the above documents, the site shall be developed and operated in accordance with the terms and conditions of Permit No. 1972-72 dated December 12, 1972, and with other permits issued for this site.

Within 35 days of the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Work required by this permit, your application or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This permit does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Please be aware that, pursuant to Section 39(i) of the Act, the Illinois EPA has conducted an evaluation of ESG Watts, Inc.'s prior experience in waste management operations.

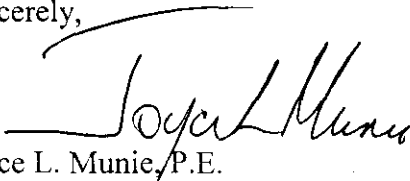
On March 1, 2002 the Illinois EPA issued a letter notifying ESG Watts, Inc. that we intended to consider ESG Watts, Inc.'s past adjudicated violations in the course of our review of this permit application. The information provided in the permit application did not address our concerns in that:

1. It was not responsive to the Illinois EPA's March 1, 2002 letter, in that it failed to explain why ESG Watts, Inc.'s past adjudicated violations are inapplicable to this permit application; and
2. It provided no reason for the Illinois EPA to believe that ESG Watts, Inc. will conduct its future waste management operations any differently than its past history of repeated violations of state laws, regulations and standards concerning the operation of refuse disposal facilities or sites.

The Illinois EPA has considered ESG Watts, Inc.'s history of repeated violations of federal, State or local laws, regulations, standards or ordinances in the operation of refuse disposal facilities or sites' as described in Section 39(i)(1) of the Act, and more specifically set forth in the Wells letter dated March 1, 2002.

Although the Illinois EPA could deny ESG Watts, Inc.'s application (Log No. 2001-459), based upon the aforementioned history of repeated (adjudicated) violations since this application for waste relocation is required by the regulations to remove waste filled beyond the maximum permitted elevations, is generally beneficial to the environment, does not pose potential threat to human health or to the environment, and expands neither the operations nor the operational life of the facility, in the exercise of the discretion afforded to the Illinois EPA pursuant to Section 39(i) of the Act, the Illinois EPA is electing not to deny this application Log No. 2001-459 on the basis of Section 39(i) at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Joyce L. Munie". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Joyce L. Munie, P.E.
Manager, Permit Section
Bureau of Land

CJL
JLM:IMS/mls/052251s.doc
JLM

Attachment: Standard Conditions

cc: Sean C. Chisek, P.E., Andrews Environmental Engineering, Inc.

STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BUREAU OF LAND

August 22, 2001

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

These standard conditions shall apply to all permits which the Agency issues for construction or development projects which require permits under the Bureau of Land. Special conditions may also be imposed in addition to these standard conditions.

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire two years after date of issuance unless construction or development on this project has started on or prior to that date.
2. The construction or development of facilities covered by this permit shall be done in compliance with applicable provisions of Federal laws and regulations, the Illinois Environmental Protection Act, and Rules and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any agent duly authorized by the Agency upon the presentation of credentials:
 - a. to enter at reasonable times the permittee's premises where actual or potential effluent, emissions or noise sources are located or where any activity is to be conducted pursuant to this permit.
 - b. to have access to and copy at reasonable times any records required to be kept under the terms and conditions of this permit.
 - c. to inspect at reasonable times, including during any hours of operation of equipment constructed or operated under this permit, such equipment or monitoring methodology or equipment required to be kept, used, operated, calibrated and maintained under this permit.
 - d. to obtain and remove at reasonable times samples of any discharge or emission of pollutants.

ESG WATTS, INC.,)	
Petitioner,)	
)	
vs.)	PCB No. 06-06
)	(Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

Lucy G Woodward