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STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

September 26, 2008

John T. Therriault, Assistant Clerk  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: **ESG Watts, Inc. v. Illinois EPA**  
**PCB No. 06-06**

Dear Clerk:

Enclosed for filing please find the original and one copy of a Notice of Filing and Respondent's Motion to Suspend Decision Deadline Waiver and Request for Hearing and Decision in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Thomas Davis", is written over a horizontal line.

Thomas Davis, Chief  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

TD/pjk  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF  
ILLINOIS, INC.,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

PCB No. 08-101  
(Permit Appeal/NPDES)

NOTICE OF FILING

To: Larry Woodward  
Corporate Counsel  
ESG Watts, Inc.  
525 17<sup>th</sup> Street  
PO Box 5410  
Rock Island, Illinois 61204-5410

RECEIVED  
CLERK'S OFFICE  
SEP 30 2008  
STATE OF ILLINOIS  
Pollution Control Board

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, RESPONDENT'S MOTION TO SUSPEND DECISION DEADLINE WAIVER AND REQUEST FOR HEARING AND DECISION, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: \_\_\_\_\_

THOMAS DAVIS, Chief  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: September 26, 2008

## CERTIFICATE OF SERVICE

I hereby certify that I did on September 26, 2008, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and RESPONDENT'S MOTION TO SUSPEND DECISION DEADLINE WAIVER AND REQUEST FOR HEARING AND DECISION

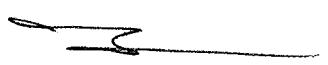
To: Larry Woodward Corporate Counsel ESG Watts, Inc. 525 17 <sup>th</sup> Street PO Box 5410 Rock Island, Illinois 61204-5410	Michelle Ryan Illinois EPA/DLC 1021 North Grand Ave. East P.O. Box 19276 Springfield, IL 62794-9276
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and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Springfield, IL 62794

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THOMAS DAVIS, Chief  
Assistant Attorney General  
Environmental Bureau

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ESG WATTS, INC.,  
an Iowa corporation,

Petitioner,

v.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Respondent.

RECEIVED  
CLERK'S OFFICE  
No. 06-06  
(Permit Appeal/Land)  
SEP 30 2008  
STATE OF ILLINOIS  
Pollution Control Board

**RESPONDENT'S MOTION TO SUSPEND DECISION DEADLINE WAIVER  
AND REQUEST FOR HEARING AND DECISION**

The Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, by LISA MADIGAN, Attorney General of the State of Illinois, moves pursuant to Sections 101.308(c) and 105.214(a) of the Board's Procedural Rules, 35 Ill. Adm. Code 101.308(c) and 105.214(a), to suspend the operation of the open waiver of decision deadline filed on October 13, 2006. For the reasons stated below, the Respondent requests that the permit appeal proceed to hearing and a decision rendered thereupon.

1. The Petition for Hearing was filed on July 7, 2005.
2. The Respondent will not attempt to summarize the enforcement history of the Taylor Ridge Landfill, except to cite to the discussions of prior adjudicated violations in the Board's orders in *People of the State of Illinois v. ESG Watts, Inc.*, PCB 96-107 and 01-167. In PCB 96-107, the Board revoked the Petitioner's operating permit and ordered Watts to cease accepting waste at the Taylor Ridge Landfill.
3. When Watts did not immediately cease operations upon revocation of its permit, the Attorney General's Office obtained the entry of an Injunction Order on March 20, 1998, in

Rock Island County Circuit Court No. 98 CH 20, requiring Watts to cease waste disposal pending appeal. The action was amended to include Watts' failure to comply with the Board's order in PCB 96-107 regarding the corrective and compliance actions, including continuing odor problems. Watts confessed judgment on December 29, 1999, and a Judgment and Injunction Order was entered. Watts was to undertake and complete closure and post-closure care of the landfill as required by its previously approved Closure Plan. Additionally, the Court ordered Watts to monitor and remediate the groundwater, to operate the leachate and gas extraction systems, to perform all necessary work to correct erosion and runoff problems, and to prevent adverse off-site impacts from any surface water discharges from the landfill through the implementation of its storm water management plan. Watts, the Illinois EPA and the Attorney General's Office subsequently entered into discussions regarding the necessary corrective and compliance actions. The parties acknowledged that the resolution of the vertical overfill was necessary prior to the final closure of the landfill; the relocation of approximately 34,000 cubic yards of vertical overfill for disposal elsewhere within the landfill so that no waste remained above a certain elevation would necessitate the removal and replacement of cover material, and the temporary disconnection of the gas/leachate wells, thereby exposing refuse and allowing gas emissions. Watts refused, however, to undertake any immediate or interim action without a permit.

4. In June 2001, the Attorney General's Office filed the complaint in PCB 01-167. The Board therein found that Watts had committed additional environmental violations as those adjudicated by the Court, e.g. exceeding the permit elevation for waste disposal and failing to

relocate the waste, causing air pollution through the uncontrolled emissions of landfill gas, and causing water pollution through groundwater contamination and offsite runoff of storm water.

5. By then, Watts had filed a permit application with the Illinois EPA in December 2001 for the revision of the Closure Plan and the issuance of a significant modification. In support of its permit application, Watts submitted to the Illinois EPA additional information on four occasions and waivers of the statutory permit deadlines on twenty-five occasions during the next few years. On May 26, 2005, the Illinois EPA issued a permit approving the waste relocation plan, the revised surface water management plan, and the surface water retention pond. The groundwater monitoring plan and other closure plan modifications were not approved.

6. In an attempt to abate the nuisance resulting from the uncontrolled emissions of landfill gas and to enforce the Judgment and Injunction Order, the Attorney General's Office obtained a Contempt Order on August 1, 2006, finding that Watts had failed to operate the landfill gas management system. On January 8, 2007, the Court ruled that Watts had purged itself of contempt by repairing the flare but cautioned that the continuing failure to comply with the other terms and conditions of the Judgment and Injunction Order could lead to further contempt proceedings. Watts argued that it did not have adequate financial resources to relocate the overfilled wastes and perform closure and post-closure activities, and that the overfill should not be moved because such work would not be cost effective and would itself create additional environmental and public health threats.

7. By providing this historical summary, the Respondent acknowledges that it has condoned or at least tolerated an inordinate amount of delay both in the permitting process and in

the pending permit appeal. The time has come to conduct a hearing on the Petitioner's challenge to the permit.

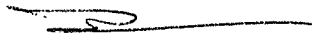
WHEREFORE, the Illinois EPA respectfully requests that the Board direct the Hearing Officer to commence a hearing in this matter by a date certain regardless of the previously filed open waiver.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA MADIGAN,  
Attorney General of the State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Attorney Reg. No. 3124200  
500 South Second Street  
Springfield, Illinois 62706  
217/782-7968  
Dated: September 24, 2008

