

ILLINOIS POLLUTION CONTROL BOARD
May 19, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 09-55
)	(IEPA No. 130-09-AC)
JASON D. & ANGELA R. MARRS d/b/a)	(Administrative Citation)
MARRS HAULING, LANDSCAPING &)	
MORE,)	
)	
Respondents.)	

MICHELLE M. RYAN APPEARED ON BEHALF OF COMPLAINANT; and
BLAKE WEAVER APPEARED ON BEHALF OF RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

On March 3, 2011, the Board issued an interim opinion and order, finding that Jason D. and Angela R. Marrs d/b/a Marrs Hauling, Landscaping & More (respondents) caused or allowed the open dumping of waste in a manner resulting in litter and the deposition of general construction or demolition debris in violation of Sections 21(p)(1) and (p)(7) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(7) (2008)). The violations were alleged in an administrative citation issued by the complainant, the Illinois Environmental Protection Agency (Agency). The property is located at 30 C.R. 3050N, Foosland, Champaign County and is commonly known to the Agency as "Foosland/Marrs, Jason-30E CR 3050N," designated as Site Code No. 0198010002).

In the Board's May 3, 2011 decision, the Board found that these two violations of Sections 21(p)(1) and (p)(7) of the Act were first offenses. The Board held that, under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2008), the respondents are subject to the statutorily-fixed \$3,000 civil penalty. In addition, the Board held that, by unsuccessfully contesting the administrative citation at hearing, the respondents must also pay the hearing costs of the Board. The hearing in this case was held on May 5, 2010 at Urbana City Building in Urbana, Champaign County.

Because no information on hearing costs was in the record, the Board directed the Agency and the Clerk of the Board to each file documentation of their respective hearing costs, supported by affidavit and served on the respondents. The Board also gave the respondents an opportunity to respond to the requests for hearing costs and noted that after the time period for these filings had expired, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On March 4, 2011, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$425.50, the entirety of which reflects the costs of court reporting. The Clerk served this documentation on the respondents. *See* 35 Ill. Adm. Code 108.502-108.506. On March 10, 2011, the Board received the Agency's statement of hearing costs, supported by affidavit, which the Agency served on the respondents. The Agency's hearing costs totaled \$128.50, consisting of mileage (for 170 miles travelled between Springfield and Champaign by Agency counsel, at \$0.55 per mile), as well as copying, clerical and mailing costs. A response was due on or about April 4, 2011. *See* 35 Ill. Adm. Code 108.506(a) (setting a 21-day deadline for response) and 101.300(c) (mail service is presumed complete after four days of mailing). The respondents have not responded to either the Clerk's or the Agency's affidavit.

The Board finds the hearing costs of the Agency and the Board to be reasonable and, below, orders the respondents to pay those costs under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2008)). The Board incorporates by reference the findings of fact and conclusions of law from its March 3, 2011 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2008)), the Board attaches the administrative citation and makes it part of the Board's final order.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board finds that Jason D. and Angela R. Marrs, d/b/a Marrs Hauling Landscaping & More (respondents) violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2008)).
2. The Board assesses the statutory civil penalty of \$3,000 for the violation, as well as hearing costs of \$425.50 and \$128.50, for a total amount due of \$3,554. The respondents must pay \$3,554 no later than July 5, 2011, which is the first business day after the 45th day of this order. The respondents must pay this amount by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name and the respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. The respondents must send the certified check or money order to:

Illinois Environmental Protection Agency
Attn.: Fiscal Services
1020 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2008); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above interim opinion and order on May 19, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board