

People’s motion for summary judgment against Desmond Jarvis, and addresses an appropriate remedy. Finally, the Board states its conclusions and issues its order.

PROCEDURAL BACKGROUND

On June 29, 2023, the People filed their complaint (Comp.), which the Board accepted for hearing on July 6, 2023. On July 24, 2023, the People filed documentation of service showing service on Robert Wietholder on July 15, 2023; on “Desmond Davis” (intended to be Desmond Jarvis) on July 8, 2023; and on Bob Jarvis by July 10, 2023. None of the respondents have filed an answer to the complaint.

On May 29, 2025, the People filed a motion to deem facts admitted and for summary judgment against Robert Wietholder and Desmond Jarvis (Mot.). In its prior opinion and order, the Board denied the motion as to Desmond Jarvis because the record did not establish that he had been served with the dispositive motion but granted the motion as to Robert Wietholder. The Board found that Robert Wietholder violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Environmental Protection Act (Act) and imposed a civil penalty. The case against Desmond Jarvis remained pending. People v. Wietholder and Jarvis, PCB 23-134, slip op. at 16 (November 6, 2025).

Desmond Jarvis did not file an answer to the complaint. However, on January 14, 2026, the Clerk received a written response from Desmond Jarvis to the People’s November 26, 2025 submission. The Board acknowledges receipt of Desmond Jarvis’ submission but does not consider it in ruling on the People’s motion.

COMPLAINT

The People’s complaint alleges that Desmond Jarvis rented the Site from Robert Wietholder and operated a waste collection business there. The complaint further alleges that Desmond Jarvis caused or allowed open dumping of waste, open burning of refuse, and unpermitted waste disposal and storage activities at the Site, which was not permitted by the Illinois Environmental Protection Agency (IEPA) and did not meet the requirements of the Act or Board regulations.

Specifically, the People allege that Desmond Jarvis violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Act. Based on the foregoing allegations, the complaint organizes these alleged violations into five counts, as summarized below.

Count I of the complaint alleges that respondents violated Section 21(a) of the Act (415 ILCS 5/21(a) (2024)) by causing or allowing the open dumping of waste at a site owned by Robert Wietholder and rented from him by Desmond Jarvis.

Count II of the complaint alleges that respondents violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)) by conducting a waste-disposal, waste-storage, or waste-treatment operation at the site without a permit granted by the Illinois Environmental Protection Agency (IEPA or Agency).

Count III of the complaint alleges that respondents violated Section 21(e) of the Act (415 ILCS 5/21(e) (2024)) by disposing, storing, or abandoning wastes at a site that does not meet the requirements of the Act and regulations promulgated under it.

Count IV of the complaint alleges that respondents violated Section 21(a) of the Act (415 ILCS 5/21(a) (2024)) by causing or allowing the open dumping of waste in a manner that resulted in litter in violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2024)).

Count V of the complaint alleges that respondents violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2024)) by causing or allowing open dumping at the site that resulted in open burning. Count V further alleges that respondents violated Section 9(a) of the Act (415 ILCS 5/9(a) (2024)) by causing, threatening, or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois and violated Section 9(c) of the Act (415 ILCS 5/9(c) (2024)) by causing or allowing the open burning of refuse at the site in a manner not approved by the Board.

The complaint requests that the Board order respondents to cease and desist from future violations of the Act, pay civil penalties of \$50,000 for each violation and \$10,000 for each day each violation continued, pay costs including attorney, expert witness, and consultant fees, and grant such other relief as the Board deems appropriate.

SERVICE OF THE PEOPLE'S MOTION

The Board's procedural rules require that dispositive motions be served upon each party. 35 Ill. Adm. Code 101.304. In its prior order, the Board denied the People's motion as to Desmond Jarvis because the record did not demonstrate that he had been served with the dispositive motion.

The November 26, 2025 filing includes a certificate of service stating that true and correct copies of the Notice of Filing and the Motion to Deem Facts Admitted and for Summary Judgment, electronically filed with the Board on May 29, 2025, were served upon Desmond Jarvis by U.S. Mail at his address of record in Coatsburg, Illinois. The People also clarified that prior references to "Desmond Davis" were clerical errors intended to refer to Desmond Jarvis.

Based on the current record, the Board finds that the People have demonstrated proper service of the dispositive motion upon Desmond Jarvis and have cured the service deficiency identified in the Board's prior order.

MOTION TO DEEM FACTS ADMITTED

The People's motion requests that the Board deem the material allegations in their complaint to be admitted as to Desmond Jarvis. Mot. at 3. Under the Board's procedural rules, a respondent must file an answer within 60 days after receipt of the complaint if the respondent wishes to deny any allegations. 35 Ill. Adm. Code 103.204(d). All material allegations of the complaint are taken as admitted if no answer is filed. 35 Ill. Adm. Code 103.204(d); *see* Mot. at

2-3.

Desmond Jarvis was served with the complaint in July 2023 and has not filed an answer. Accordingly, he failed to answer the complaint within 60 days after service, *i.e.*, by Wednesday, September 13, 2023. The People filed their motion to deem facts admitted and for summary judgment on May 29, 2025. Service of the People’s motion to deem facts admitted and for summary judgment was perfected by U.S. Mail on November 26, 2025. Under 35 Ill. Adm. Code 101.300(c)(4), service by mail is presumed complete four days after mailing. Because the fourth day after November 26, 2025, was a Sunday, service is presumed complete on the next business day, Monday, December 1, 2025, consistent with 35 Ill. Adm. Code 101.300(a). Pursuant to 35 Ill. Adm. Code 101.500(c), Desmond Jarvis had 14 days from service to file a response, making his response due on December 15, 2025.

As noted above, Desmond Jarvis did respond to the motion on January 14, 2026. In that response he did admit to “fault” for certain violations. However, because the submission was filed more than one month after deadline, by failing to timely respond, Desmond Jarvis waived any objection to the granting of the motion. 35 Ill. Adm. Code 101.500(d). While the waiver does not bind the Board, the Board may proceed to decide the motion on the record before it. Given that Desmond Jarvis did not respond within the time allowed, the Board deems the material allegations in the complaint admitted.

Accordingly, the Board grants the People’s unopposed motion to deem facts admitted against Desmond Jarvis and deems admitted the material allegations of the complaint as they relate to him.

FACTS DEEMED ADMITTED

Desmond Jarvis operated a waste collection business at a residential property located at 326 West Mill Street in Mendon, Adams County (Site). Comp. at 2, 5 (¶¶ 6, 21). Desmond Jarvis is an individual. Comp. at 4 (¶14). The property is owned by Robert Wietholder. *Id.* at 2 (¶5). At all relevant times, Desmond Jarvis rented the Site from Wietholder and conducted waste collection activities there, with assistance from Bob Jarvis. Comp. at 2 (¶¶6-7). At all relevant times, the Site was not permitted for waste disposal. Comp. at 6, 9 (¶¶ 27, 26). The Agency has never issued a permit authorizing waste disposal, storage, or treatment activities at the Site. *Id.* at 7 (¶31).

On September 9, 2020, the IEPA inspected the Site and observed approximately 40 cubic yards of open dumped waste and approximately twelve used tires. Comp. at 2 (¶8). Inspectors also observed an open burn area east of the house containing remnants of burned waste and charred soil, a burn barrel on the east side of the house, two burn barrels on the east side of the garage, and incinerated household waste in the burn barrels. *Id.* Inspectors further observed mattresses, furniture, scrap metal, and other miscellaneous waste between and in front of the garages. *Id.*

During that inspection, Tina Wietholder told inspectors that Desmond Jarvis, her son, had been collecting waste from homes in neighboring communities and bringing those waste items to

the Site to strip for scrap metal recycling. Comp. at 2-3 (¶9). She also stated she would instruct Desmond Jarvis to clean up the Site and requested that IEPA send her copies of any correspondence to him. *Id.* at 3 (¶9).

On September 15 and 17, 2020, Tina Wietholder sent IEPA several receipts, including three from transfer stations dated September 10, 11, and 14, 2020; one from a truck service dated September 10, 2020; one from a metal recycling company dated September 14, 2020; an undated handwritten receipt for 10 gallons of used oil for recycling; a photo of a log with Robert Wietholder's name on the same line as the date September 20, 2020, and "5 gallon" in the column entitled "# of gallon"; and Site photos showing items including empty burn barrels, a metal rim on its side, and several mattresses on a vehicle. Comp. at 3 (¶10).

On March 31, 2021, IEPA re-inspected the Site and observed new accumulations of waste, apparently generated off-site, including a mattress, old barn wood, two tires, aerosol cans, three televisions, a computer monitor, an air conditioning unit, construction and demolition debris, paint cans, a VCR, lawn mower parts, and miscellaneous plastic and metal. Comp. at 3 (¶11). Inspectors also observed charred ground and charred remains of general construction and demolition debris, plastic, metal, cans, mattress covers, fabric, and screws. *Id.*

IEPA inspectors observed burn barrels and open burn areas containing incinerated household waste and charred construction and demolition debris at the Site. Comp. at 2-3 (¶¶ 8, 11).

The burn barrels, mattress, furniture, scrap metal and other miscellaneous items were present on the Site. Comp. at 4 (¶18). Waste was discharged, dumped, spilled, leaked, and/or placed on land. Comp. at 5 (¶23).

The discarded material, including mattresses, furniture, scrap metal, general construction and demolition debris, plastic waste, metal, fabric, televisions, lawn mower parts, and other miscellaneous items, were present on the Site. Comp. at 11 (¶33).

On August 25, 2022, IEPA re-inspected the Site and observed that the open burn pile and general construction and demolition debris had been removed and that there was no apparent open dumping at the Site. Comp. at 3 (¶12).

MOTION FOR SUMMARY JUDGMENT

The People seek summary judgment against Desmond Jarvis. A party has 14 days after receiving a motion for summary judgment to respond. 35 Ill. Adm. Code 101.516(a). If a party does not respond within that period, it "waives objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d).

Desmond Jarvis submitted a written response to the People's November 26, 2025 submission on January 14, 2026. The Board acknowledges receipt of this submission but finds it was filed after the deadline for responding to the People's motion. Accordingly, the Board

proceeds to decide the motion on the record before it and deems the material allegations in the complaint admitted.

The People assert that, based on these admitted facts, “then the record shows that there is no issue of material fact remaining for review.” Mot. at 4. The People further argue that they are entitled to summary judgment against Desmond Jarvis on all five counts of its complaint and a Board finding that Desmond Jarvis violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Act (Act) (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3) (2024)).

Next, the Board provides relevant statutory authorities and the standard for considering a motion for summary judgment before deciding the motion.

Statutory Authorities

This matter is governed by several provisions of the Act.

Section 3.105 of the Act defines “Agency” as “the Environmental Protection Agency established by this Act.” 415 ILCS 5/3.105 (2024).

Section 3.115 defines “air pollution” as “the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.” 415 ILCS 5/3.115 (2024).

Section 3.165 defines “contaminant” as “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.” 415 ILCS 5/3.165 (2024).

Section 3.185 defines “disposal” as “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.” 415 ILCS 5/3.185 (2024).

Section 3.300 defines “open burning” as “the combustion of any matter in the open or in an open dump.” 415 ILCS 5/3.300 (2024).

Section 3.305 defines “open dumping” as “the consolidation of refuse one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.” 415 ILCS 5/3.305 (2024).

Section 3.315 defines “person” as “any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agents or assigns.” 415 ILCS 5/3.315 (2024).

Section 3.385 defines “refuse” as “waste.” 415 ILCS 5/3.385 (2024).

Section 3.445 defines “sanitary landfill” as “a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation. 415 ILCS 5/3.445 (2024).

Section 3.460 defines “site” as “any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control under this Act or regulations thereunder.” 415 ILCS 5/3.460 (2024).

Section 3.535 defines “waste” in pertinent part as “any garbage ... or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....” 415 ILCS 5/3.535 (2024).

Section 9(a) of the Act prohibits any person from causing or allowing the emission of contaminants into the environment to cause or tend to cause air pollution. 415 ILCS 5/9(a) (2024).

Section 9(c) prohibits any person from causing or allowing the open burning of refuse except as approved by the Board. 415 ILCS 5/9(c) (2024).

Section 21(a) prohibits open dumping of waste. 415 ILCS 5/21(a) (2024).

Section 21(d)(1) prohibits the operation of any waste disposal or storage site without a permit issued by IEPA. 415 ILCS 5/21(d)(1) (2024).

Section 21(e) prohibits the disposal or storage of waste except at a site that meets the requirements of the Act. 415 ILCS 5/21(e) (2024).

Section 21(p)(1) prohibits open dumping that results in litter. 415 ILCS 5/21(p)(1) (2024).

Section 21(p)(3) prohibits open dumping that results in open burning. 415 ILCS 5/21(p)(3) (2024).

Section 3(a) of the Litter Control Act defines “litter” as any discarded, abandoned, or improperly disposed substance or material. 415 ILCS 105/3(a) (2024).

Standard for Summary Judgment

Summary judgment is appropriate when the pleadings, admissions, affidavits, and other materials of record show that there is no genuine issue of material fact and that the moving party

is entitled to judgment as a matter of law. 35 Ill. Adm. Code 101.516(b); Adames v. Sheahan, 233 Ill.2d 276, 295 (2009); Dowd & Dowd, Ltd. v. Gleason, 181 Ill.2d 460, 483 (1998). In ruling on a motion for summary judgment, the Board construes the record strictly against the moving party and liberally in favor of the nonmoving party. Adames, 233 Ill. 2d at 295-96, 909 N.E.2d at 754; Purtill v. Hess, 111 Ill. 2d 229, 240, 489 N.E.2d 867, 871 (1986).

“It is well established that in deciding a motion for summary judgment the court may draw inferences from undisputed fact.” Makowski v. City of Naperville, 249 Ill. App. 3d 110, 119, 617 N.E. 2d 1251 (1993); Loyola Academy v. S & S Roof Maintenance, Inc., 146 Ill. 2d 263, 272, 586 N.E.2d 1211 (2d Dist. 1992). However, if reasonable persons could draw divergent inferences from the undisputed facts, summary judgment is inappropriate, and the matter must be resolved by the trier of fact. Makowski, 249 Ill. App. 3d at 119; Pyne v. Witmer, 129 Ill. 2d 351, 358, 543 N.E.2d 1304.

When a party fails to timely respond to a motion for summary judgment, the party may waive objection to the granting of the motion. 35 Ill. Adm. Code 101.500(d). Although the waiver does not bind the Board, the Board may proceed to decide the motion based on the record before it. Where material facts are deemed admitted and no genuine issue of material fact exists, summary judgment may properly be granted. Adames, 233 Ill. 2d at 295; Dowd & Dowd, 181 Ill. 2d at 483.

Analysis

The People’s complaint alleges that Desmond Jarvis operated a waste collection business at the Site and caused or allowed open dumping, open burning, and unpermitted waste disposal activities. Desmond Jarvis submitted a written response on January 14, 2026. The Board acknowledges receipt of this submission but finds it was filed after the deadline for responding to the People’s motion. Accordingly, the Board proceeds to decide the motion on the record before it and deems the material allegations in the complaint admitted.

The facts deemed admitted establish that Desmond Jarvis is a “person” who operated a waste collection business at the Site, which was not permitted by IEPA and did not meet the requirements of a sanitary landfill. Comp. at 2-5 (¶¶ 6, 8-11, 18, 21). The admitted facts establish that Desmond Jarvis exercised control over waste handling activities at the Site.

IEPA inspections documented substantial quantities of waste placed and allowed to accumulate at the Site, as well as repeated evidence of open burning. Subsequent re-inspection on August 25, 2022, documented that the Site had been cleaned up, confirming that the prior accumulations were remediated. Comp. at 15 (¶45). This admitted fact demonstrates that the Site conditions were correctable and informs the assessment of civil penalties under Sections 33(c) and 42(h).

Based on the facts deemed admitted, the record establishes that Desmond Jarvis engaged in open dumping, waste storage, and open burning at the Site, which was not permitted by IEPA and did not meet the requirements of a sanitary landfill. The following count-by-count analysis demonstrates the specific statutory violations.

Count I – Section 21(a)

In Count I, the People allege that Desmond Jarvis violated Section 21(a) of the Act, which provides that no person shall cause or allow the open dumping of any waste. Comp. at 6 (¶¶28–29); see 415 ILCS 5/21(a) (2024).

The facts deemed admitted establish that Desmond Jarvis is a “person” who operated a waste collection business at the Site. Comp. at 4-5 (¶14, 21). At all relevant times, Desmond Jarvis rented the Site from Wietholder and operated a waste collection business there. *Id.* at 2 (¶6).

IEPA inspections documented open dumping of waste, including burn barrels, tires, mattresses, furniture, scrap metal, and other discarded materials that constitute “waste” and “refuse.” Comp. at 2-4 (¶¶8, 11, 18). The Site was not permitted for waste disposal and did not meet the requirements of a “sanitary landfill.” *Id.* at 6 (¶27).

Applying the Board’s standard for summary judgment, the Board finds no genuine issue of material fact concerning the People’s allegations in Count I. The facts deemed admitted establish that Desmond Jarvis caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, thereby causing or allowing open dumping of waste at the Site in violation of Section 21(a). The People are entitled to judgment as a matter of law.

Accordingly, on Count I, the Board grants the People’s motion for summary judgment and finds that Desmond Jarvis violated Section 21(a) of the Act (415 ILCS 5/21(a) (2024)).

Count II – Section 21(d)(1)

In Count II, the People allege that Desmond Jarvis violated Section 21(d)(1) of the Act, which prohibits any person from conducting waste-storage, waste-treatment, or waste-disposal operations without an IEPA permit. Comp. at 7 (¶33); see 415 ILCS 5/21(d)(1) (2024).

The facts deemed admitted establish that Desmond Jarvis operated a waste collection business at the Site and conducted waste storage and disposal activities without a permit. Comp. at 2–5 (¶¶6, 8–11, 18, 21). IEPA never granted Desmond Jarvis a permit to conduct a waste-disposal, waste-storage, or waste-treatment operation at the Site. *Id.* at 7 (¶31).

IEPA inspections documented large accumulations of waste, including tires, mattresses, furniture, scrap metal, and construction debris, maintained on the property in a manner constituting waste storage, disposal, and open dumping under Sections 3.185, 3.305, and 21(d)(1) of the Act. *Id.* at 2-5 (¶¶8-11, 18, 23).

Based on these undisputed facts, there is no genuine issue of material fact as to Count II. The record establishes that Desmond Jarvis conducted or allowed a waste disposal, storage,

and/or treatment operation at the Site without the required permit. The People are entitled to judgment as a matter of law.

Accordingly, on Count II, the Board grants the People's motion for summary judgment and finds that Desmond Jarvis violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)).

Count III – Section 21(e)

In Count III, the People allege that Desmond Jarvis violated Section 21(e) of the Act, which prohibits any person from disposing, treating, storing, or abandoning waste except at a site or facility that meets the requirements of the Act and Board rules. Comp. at 9 (¶38); see 415 ILCS 5/21(e) (2024).

The facts deemed admitted, as previously described, establish that Desmond Jarvis disposed and stored waste at a site that did not comply with the Act. Comp. at 2-5, 7, 9 (¶¶6, 8–11, 18, 21, 31, 36). IEPA inspections documented accumulations of discarded materials, including burn barrels, mattresses, furniture, and scrap metal, placed on the property in a manner constituting disposal and waste and refuse. Tina Wietholder reported that Desmond Jarvis collected waste and brought it to the Site. *Id.* at 2-3 (¶9).

Construing the record strictly against the People and liberally in favor of Desmond Jarvis, the Board finds no genuine issue of material fact as to the People's allegations in Count III. The facts deemed admitted establish that Desmond Jarvis disposed of, stored, or abandoned waste that did not comply with the Act and the Board's rules. Accordingly, the People are entitled to judgment as a matter of law.

Therefore, on Count III, the Board grants the People's motion for summary judgment and finds that Desmond Jarvis violated Section 21(e) of the Act (415 ILCS 5/21(e) (2024)).

Count IV – Section 21(p)(1)

In Count IV, the People allege that Desmond Jarvis violated Section 21(p)(1) of the Act, which prohibits any person from causing or allowing the open dumping of waste in violation of Section 21(a) in a manner that results in litter. Comp. at 11 (¶34); see 415 ILCS 5/21(p)(1) (2024).

The facts deemed admitted establish that Desmond Jarvis caused or allowed the open dumping of waste at the Site, which resulted in the presence of litter, including mattresses, furniture, scrap metal, plastic, and other discarded materials. Comp. at 11 (¶33), citing 415 ILCS 105/3(a) (2024).

Applying the summary judgment standard, the Board finds no genuine issue of material fact as to the People's allegations in Count IV. The facts deemed admitted establish that Desmond Jarvis caused or allowed the open dumping of waste in violations of Section 21(a) in a manner that resulted in litter. Accordingly, the People are entitled to judgment as a matter of

law.

Therefore, on Count IV, the Board grants the People’s motion for summary judgment and finds that Desmond Jarvis violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2024)).

Count V - Sections 9(a), 9(c), and 21(p)(3)

In Count V, the People allege that Desmond Jarvis violated Sections 9(a), 9(c), and 21(p)(3) of the Act. Section 9(a) prohibits any person from causing or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution. 415 ILCS 5/9(a) (2024); *see* Comp. at 13 (¶38). Section 9(c) prohibits open burning of refuse in a manner not approved by the Board, and Section 21(p)(3) prohibits open dumping that results in open burning. Comp. at 13-14 (¶¶38-42); *see* 415 ILCS 5/9(a), 9(c), 21(p)(3) (2024).

The facts deemed admitted establish that Desmond Jarvis operated a waste collection business, caused or allowed open burning at the Site, including burn barrels and open burn areas. Comp. at 2-5, 13-14 (¶¶6, 8–11, 18, 21, 37-41). Open burning constitutes combustion in the open under Section 3.300, resulting in the emission of contaminants and air pollution as defined in Sections 3.165 and 3.115. These activities were not approved by the Board, violating Section 9(c), and caused or tended to cause air pollution, violating Section 9(a). The open dumping of waste that resulted in open burning also violated Section 21(p)(3).

Applying the summary judgment standard, the Board finds no genuine issue of material fact as to the People’s allegations in Count V. The facts deemed admitted establish that Desmond Jarvis violated Sections 9(a), 9(c), and 21(p)(3) of the Act. The People are therefore entitled to judgment as a matter of law.

Accordingly, on Count V, the Board grants the People’s motion for summary judgment and finds that Desmond Jarvis violated Sections 9(a), 9(c), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), 21(p)(3) (2024)).

REMEDY

Having found that Desmond Jarvis violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3) (2024)), the Board must determine an appropriate remedy.

The People request that the Board assess a civil penalty of no less than \$7,500 against Desmond Jarvis. Mot. at 10. The People also request that Desmond Jarvis “be ordered to cease and desist from further violations of the Act and Board Regulations.” *Id.* at 5.

In making this determination, the Board has considered the factors set forth in Section 33(c) of the Act. 415 ILCS 5/33(c) (2024); *see* Mot. at 5. If after considering the Section 33(c) factors the Board concludes to impose a civil penalty, the Board then considers the factors of Section 42(h) of the Act to determine the appropriate amount of the civil penalty. 415 ILCS 5/42(h) (2024).

Section 33(c)

The Board therefore turns first to the factors identified in Section 33(c) of the Act. Section 33(c) of the Act provides that,

[i]n making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance. 415 ILCS 5/33(c) (2024).

People's Motion

The People provided brief statements concerning each of the Section 33(c) factors. First, the People asserted that “[h]uman health and the environment were threatened by the improper open dumping of waste and open burning violations” by Desmond Jarvis at the Site. Mot. at 6. Second, the People argued that “[t]here is social and economic benefit to the proper disposal of waste, if conducted in a manner compliant with the Act and Board’s regulations.” *Id.* Third, the People argue that “[t]he subject residential property was not suitable for use as a waste disposal location.” *Id.* Fourth, the People state that “[p]roper disposal of waste is technically practicable and economically reasonable.” *Id.* Finally, the People acknowledge that, after two inspections of the Site in 2020 and 2021, the respondents “subsequently brought the Site into compliance by August 25, 2022.” *Id.*

Board Discussion

As to the first factor, the Board agrees with the People and finds that Desmond Jarvis’ improper open dumping and open burning violations threatened human health and the environment. The Board weighs this factor against him.

As to the second factor, although the Board agrees with the People that there is social and

economic benefit to the proper disposal of waste, it cannot find that Desmond Jarvis conducted waste disposal properly. As to the third factor, the Board also agrees with the People that the subject residential property was not suitable for waste disposal. The Board weighs both the second and third factors against Desmond Jarvis.

As to the fourth factor, the Board agrees with the People that proper waste disposal is technically practicable and economically reasonable, and it weights this factor against Desmond Jarvis.

Finally, as to the fifth factor, IEPA's initial inspection identified open dumping and open burning violations at the Site, and the March 31, 2021 re-inspection continued to show new accumulations of waste and evidence of burning, reflecting both the nature of the violations and duration of non-compliance. By the August 25, 2022 inspection, the Site had been brought into compliance, demonstrating adherence to environmental standards and any subsequent compliance under Section 33(c)(v). The Board notes the earlier violations to emphasize the importance of proper waste management and protection of the surrounding community and environment. Because both the past non-compliance and the eventual corrective actions are relevant, the Board does not weigh this factor either against or in favor of Desmond Jarvis.

Considering all factors together, the admitted facts show that no permit was ever issued for the Site, and that Desmond Jarvis knowingly conducted waste storage, disposal, and open burning activities there. The violations involved the improper disposal and open burning of waste at a residential site that was not designed, permitted, or suitable for such activities. These activities threatened human health and the environment by creating risks associated with air contamination, fire hazards, and the uncontrolled release of waste constituents. The record reflects that IEPA inspections documented repeated violations over time, underscoring the persistence of the hazardous conditions. Proper disposal of waste at a permitted facility is both technically practicable and economically reasonable, and nothing in the record indicates that compliance with the Act was infeasible. These factors support the imposition of a remedy, and the Board finds that a civil penalty is warranted.

Section 42(h)

Having concluded that the Section 33(c) factors warrant the imposition of a civil penalty, the Board next applies the factors set forth in Section 42(h) of the Act to consider the People's requested civil penalty of \$7,500 against Desmond Jarvis.

Section 42(h) provides that,

[i]n determining the appropriate civil penalty to be imposed, . . . the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including, but not limited to, the following factors:

- (1) the duration and gravity of the violation;
- (2) the presence or absence of due diligence on the part of the

respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

- (3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
- (4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
- (5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
- (6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency;
- (7) whether the respondent has agreed to undertake a "supplemental environmental project", which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
- (8) whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint. 415 ILCS 5/42(h) (2024).

People's Motion

The People provided brief statements concerning each of the Section 42(h) factors. First, the People asserted that Desmond Jarvis “allowed open dumping of waste and open burning at the Site, which was not permitted for the disposal of wastes on land.” Mot. at 8. The People also noted that the Site was out of compliance by September 9, 2020, but returned to compliance by August 25, 2022. *Id.*

Second, the People argued that Desmond Jarvis “failed to act diligently in this matter, in that he allowed open dumping of waste at the Site when it was not permitted for the disposal of wastes on land; and they allowed the improper disposal of waste at the Site.” Mot. at 9.

Third, the People argued that their recommended penalty of \$7,500 includes any

economic benefit that Desmond Jarvis “may have accrued as a result of [his] respective noncompliance.” Mot. at 9. Fourth, the People argued that this recommended penalty “will serve to deter further violations” and “will aid in enhancing voluntary compliance with the Act and Board Regulations” by Desmond Jarvis and others. *Id.*

Fifth, the People stated that, to their knowledge, Desmond Jarvis has “no previously adjudicated violations.” Mot. at 9. Sixth, the People reported that “[s]elf-disclosure is not at issue in this matter.” *Id.* Seventh, the People stated that Desmond Jarvis “did not perform a supplemental environmental project.” *Id.* Eighth, the People stated that “[a] Compliance Commitment Agreement was not at issue in this matter.” *Id.*

Board Discussion

The violations by Desmond Jarvis continued for at least 23 months from September 9, 2020, to August 25, 2022. As noted above in discussing Section 33(c), the Board agrees with the People and found that these open dumping and open burning violations threatened human health and the environment. The duration of these violations also shows a lack of diligence in complying with the requirements of the Act. The Board weighs these first two Section 42(h) factors against Desmond Jarvis.

The Board also agrees with the People that the requested civil penalty of \$7,500 includes any economic benefit that Desmond Jarvis may have accrued from noncompliance and will deter violations while promoting voluntary compliance with the Act. Accordingly, the Board weighs these factors against Desmond Jarvis and finds that they support the People’s requested penalty.

Desmond Jarvis does not have a previously adjudicated violation, which weighs in his favor. Neither self-disclosure nor a Compliance Commitment Agreement were at issue in this matter, and Desmond Jarvis did not propose or perform a supplemental environmental project. The Board does not weigh these last three factors in favor of or against Desmond Jarvis.

The People’s complaint initially requested significantly higher relief, including cease and desist orders to prevent future violations, civil penalties of \$50,000 for each violation and \$10,000 for each day the violations continued, payment of costs including attorney, expert witness, and consultant fees, and such other relief as the Board deemed appropriate and just. The requested \$7,500 civil penalty is therefore substantially below the original requested amounts.

Considering the record as a whole, including the violations deemed admitted, the persistence of noncompliance, and the corrective actions taken, the Board finds that the requested civil penalty of \$7,500 is appropriate and proportionate. This penalty reflects the seriousness of Desmond Jarvis’ conduct, provides a meaningful deterrent against future violations, and promotes voluntary compliance with the Act. The Board also emphasizes that this penalty is substantially below the relief initially sought by the People and is sufficient to achieve the remedial and deterrent purposes of the Act. Accordingly, the Board assesses a civil penalty of \$7,500 against Desmond Jarvis and orders him to cease and desist from future violations of the Act.

CONCLUSION

Service of the People's motion to deem facts admitted and for summary judgment on Desmond Jarvis has been perfected, and the time for filing a timely response has expired. Desmond Jarvis filed a submission on January 14, 2026, after the deadline. The Board acknowledges receipt of this submission but, because it was untimely, the material allegations in the complaint are deemed admitted. The undisputed facts establish that Desmond Jarvis violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Act (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3) (2024)). Accordingly, summary judgment is appropriate, and the People are entitled to judgment as a matter of law against Desmond Jarvis.

After considering the factors in Sections 33(c) and 42(h) of the Act (415 ILCS 5/33(c), 42(h) (2024)), the Board orders Desmond Jarvis to pay a \$7,500 civil penalty and to cease and desist from future violations of the Act.

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

ORDER

1. The Board grants the People's motion to deem facts admitted and for summary judgment against Desmond Jarvis.
2. The Board finds that Desmond Jarvis violated Sections 9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), and 21(p)(3) of the Environmental Protection Act (415 ILCS 5/9(a), 9(c), 21(a), 21(d)(1), 21(e), 21(p)(1), 21(p)(3) (2024)), as alleged in the People's complaint.
3. Desmond Jarvis must pay a civil penalty of \$7,500 no later than Monday, February 23, 2026, which is the first business day after 30 days after the date of this order. Payment must be made by certified check or money order payable to the Environmental Protection Trust Fund. The case number and case name must be included on the respective check or money order.
4. Desmond Jarvis must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division 2520
West Iles Avenue PO Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2024)) at the rate under Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2024)).
6. Desmond Jarvis shall cease and desist from future violations of the Environmental

Protection Act that were the subject of the complaint.

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) (2024); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Attorney General’s Office Attn. Bridget Flynn, Asst. Atty. General 500 South 2nd Street Springfield, Illinois 62701 Bridget.Flynn@ilag.gov	Illinois Pollution Control Board Attn.: Don A. Brown, Clerk 60 East Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Robert Wietholder 326 West Mill Street Mendon, Illinois 62351 Desmond Jarvis 205 South Main Street Coatsburg, Illinois 62355	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 22, 2026, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board