

ILLINOIS POLLUTION CONTROL BOARD
November 6, 2025

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 23-134
)	(Enforcement - Land)
ROBERT WIETHOLDER, an individual, and)	
DESMOND JARVIS, an individual,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by A. Tin):

On June 29, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Robert Wietholder, Desmond Jarvis, and Bob Jarvis (collectively, respondents). The complaint concerns a waste collection business operated by Desmond Jarvis and Bob Jarvis on property owned by Robert Wietholder located at 326 West Mill Street in Mendon, Adams County.

On May 1, 2025, the Board accepted a proposed settlement between the People and Bob Jarvis. The Board’s order stated that “[t]he case against Robert Wietholder and Desmond Jarvis continues. . . . [T]he caption of subsequent orders issued in this docket will not include Bob Jarvis.” People v. Wietholder, Jarvis, and Jarvis, PCB 23-134, slip op. at 3, n.1 (May 1, 2025).

On May 29, 2025, the People filed a motion to deem facts admitted and for summary judgment (Mot.) against Robert Wietholder and Desmond Jarvis. Neither has responded to the motion. For the reasons discussed below, the Board denies the People’s motion against Desmond Jarvis. The Board then grants the People’s motion against Robert Wietholder and finds that he 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) (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.

In this opinion and order, the Board first reviews the procedural history of the case and summarizes the People’s complaint. The Board then addresses service of the People’s motion and denies the motion against Desmond Jarvis. The Board then grants the People’s motion to deem facts admitted against Robert Wietholder and provides the uncontested facts. The Board next provides statutory authorities and then grants the People’s motion for summary judgment against Robert Wietholder before discussing an appropriate remedy. The Board then reaches 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 on Robert Wietholder on July 15, 2023; on Desmond Davis on July 8, 2023; and on Bob Jarvis by July 10, 2023.¹ As of the date of this order, neither Robert Wietholder, Desmond Jarvis, nor Bob Jarvis has filed an answer to the complaint.

On March 25, 2025, the People filed a stipulation and proposed settlement with Bob Jarvis and a motion for relief from the hearing requirement. On April 3, 2025, the Board directed its Clerk to provide the required publication of the stipulation, proposed settlement, and request for relief, which appeared in the Quincy *Herald-Whig* on April 5, 2025. On May 1, 2025, the Board granted relief from the hearing requirements and accepted the proposed settlement with Bob Jarvis.

On May 29, 2025, the People filed a motion to deem facts admitted and for summary judgment against Robert Wietholder and Desmond Jarvis (Mot.). Neither has responded to the motion.

COMPLAINT

The People's complaint alleges that respondents violated the following authorities:

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)).

¹ The People's documentation indicates that the certified mail receipt for service on Desmond Jarvis lists the name "Desmond Davis" and was signed "D. Davis" at 205 S. Main St., Coatsburg, IL 62355. The Board notes that, while the complaint and captions consistently refer to respondent "Desmond Jarvis," the People's service lists and certificates of service refer to both "Desmond Jarvis" and "Desmond Davis." The Board requests that the People address this apparent discrepancy in any future filing(s).

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

SERVICE

The Board's procedural rules require that "[a] party filing a document with the Clerk under Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding. . . ." 35 Ill. Adm. Code 101.304. Under subsection (d)(4), the certificate of service must identify each person served, along with their address and the manner of service. The People's motion to deem facts admitted and for summary judgment includes a certificate of service showing service by U.S. Mail to Robert Wietholder and Bob Jarvis. Mot. at 15-16. However, the certificate makes no reference to serving the motion on Desmond Jarvis. *See id.*

Based on the record now before it, the Board cannot conclude that Desmond Jarvis was properly served with the People's dispositive motion.

Particularly because the People's motion for summary judgment is based on respondents' failure to respond to it, the Board denies the People's motion to deem facts admitted and for summary judgment against Desmond Jarvis.

While the case against Desmond Jarvis remains pending, the Board proceeds below to consider the motion only as it relates to Robert Wietholder.

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 Robert Wietholder. Mot. at 3. Under the Board's procedural rules, "the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by answer." 35 Ill. Adm. Code 103.204(d); *see* Mot. at 2.

Robert Wietholder failed to answer the complaint within 60 days after service, *i.e.*, by Wednesday, September 13, 2023, and failed to respond to the People's motion to deem facts

admitted, thereby waiving any objection to the Board granting the motion. *See* 35 Ill. Adm. Code 101.500(d). Accordingly, the Board grants the People's unopposed motion with respect to Robert Wietholder and deems admitted the material allegations in the People's complaint against him.

FACTS DEEMED ADMITTED

Robert Wietholder owns a residential property at 326 West Mill Street in Mendon, Adams County (Site). Comp. at 2 (¶5). The Site qualifies as a "site" as defined in the Act. *Id.* at 5 (¶21), citing 415 ILCS 5/3.460 (2024). However, it does not constitute a facility subject to the Act's requirements or to Illinois waste disposal or storage regulations and standards. Comp. at 9 (¶36). At all relevant times, the Site was not permitted for waste disposal and therefore was not a "sanitary landfill" as defined by the Act. Comp. at 6 (¶27), citing 415 ILCS 5/3.445 (2024). The Agency has never granted Robert Wietholder a permit to conduct waste disposal, waste storage, or waste treatment operations at the Site. Comp. at 7 (¶31).

At all relevant times, Desmond Jarvis rented the Site from Wietholder and operated a waste collection business there, with assistance from Bob Jarvis, at times best known to the respondents. Comp. at 2 (¶¶6-7). Each respondent is an individual and is therefore a "person" as defined in the Act. *Id.* at 4 (¶14), citing 415 ILCS 5/3.315 (2024).

On September 9, 2020, IEPA inspected the Site and observed approximately 40 cubic yard of open dumped waste and approximately twelve used tires. Comp. at 2 (¶8). Inspectors also observed an open burn area east of the house with a large metal wheel rim that contained remnants of burned waste and charred soil around the rim, 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 all of the burn barrels. *Id.* Between and in front of the two garages, inspectors observed waste items including mattresses, furniture, scrap metal, and other miscellaneous waste. *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. Comp. at 3 (¶11). These included a mattress, old barn wood, two tires, aerosol cans, three televisions, a computer monitor, an air conditioning unit,

general construction and demolition debris, paint cans, a VCR, lawn mower parts, and miscellaneous plastic and metal. *Id.* Inspectors also observed charred ground in the main burn area and charred remains of general construction and demolition debris, plastic, metal, cans, mattress covers, fabric, and screws. *Id.*

The burn barrels, mattress, furniture, scrap metal and other miscellaneous items at the Site are “discarded material” and therefore “waste” and “refuse” as those terms are defined in the Act. Comp. at 4 (¶18), citing 415 ILCS 5/3.305, 3.460 (2024). Waste was discharged, dumped, spilled, leaked, and/or placed on land at the Site so that waste or constituents of it may enter the environment or be emitted into the air or be discharged into waters or groundwaters. Therefore, “disposal” as the Act defines that term occurred on the Site. Comp. at 5 (¶23), citing 415 ILCS 5/3.185 (2024). The Site is a “site” on which respondents caused or allowed “disposal” of “waste” as the Act defines those terms, making the Site a “disposal site.” Comp. at 5 (¶24), citing 415 ILCS 5/3.185, 3.460 (2024).

In addition, the discarded material including mattresses, furniture, scrap metal, general construction and demolition debris, plastic waste, metal, fabric, televisions, lawn mower parts, and other miscellaneous waste constitute “litter” as that term is defined in Section 3(a) of the Litter Control Act. Comp. at 11 (¶33), citing 415 ILCS 105/3(a) (2024).

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 it appeared nobody was open dumping at the Site. Comp. at 3 (¶12).

MOTION FOR SUMMARY JUDGMENT

The People seek summary judgment against Robert Wietholder. A party has 14 days after receiving a motion for summary judgment to respond. 35 Ill. Adm. Code 101.516(a). If it does not respond, “the party 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). Robert Wietholder did not respond to the People’s motion or file a motion to extend the response deadline. The Board finds that by failing to respond to the People’s motion for summary judgment, Robert Wietholder has waived any objection to the Board granting the People’s motion for summary judgment.

The People argue that, if the Board grants its motion to deem facts admitted, “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 Robert Wietholder on all five counts of its complaint and a Board finding 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 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

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

Section 3.185 of the Act 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 of the Act 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 of the Act defines “open dumping” as “the consolidation of refuse from 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 of the Act 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, agent or assigns.” 415 ILCS 5/3.315 (2024).

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

Section 3.445 of the Act 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 of the Act 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 by this Act or regulations thereunder.” 415 ILCS 5/3.460 (2024).

Section 3.535 of the Act 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 provides in its entirety that no person shall

[c]ause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act. 415 ILCS 5/9(a) (2024).

Section 9(c) of the Act provides that no person shall

[c]ause or allow the open burning of refuse, . . . except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning. 415 ILCS 5/9(c) (2024).

Section 21(a) of the Act provides in its entirety that no person shall “[c]ause or allow the open dumping of any waste.” 415 ILCS 5.21(a) (2024).

Section 21(d)(1) of the Act provides in pertinent part that no person shall “[c]onduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency . . .” 415 ILCS 5/21(d)(1) (2024).

Section 21(e) of the Act provides in its entirety that no person shall “[d]ispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.” 415 ILCS 5/21(e) (2024).

Section 21(p) of the Act provides in pertinent part that no person shall,

[i]n violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

* * *

(3) open burning. . . . 415 ILCS 5/21(p) (2024).

Section 3(a) of the Litter Control Act defines “litter” as

any discarded, used or unconsumed substance or waste. “Litter” may include, but is not limited to, any garbage, trash, refuse, cigarettes, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly. 415 ILCS 105/3(a) (2024).

Standard for Summary Judgment

Summary judgment is appropriate when the pleadings, depositions, admissions, affidavits and other items in the 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, 909 N.E.2d 742, 753 (2009); Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998). When determining whether a genuine issue of material fact exists, the record “must be construed strictly against the movant and liberally in favor of the opponent.” 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, where reasonable persons could draw divergent inferences from undisputed facts, the trier of fact should decide the issues and the summary judgment motion should be denied.” Makowski, 249 Ill. App. 3d at 119; Pyne v. Witmer, 129 Ill. 2d 351, 358, 543 N.E.2d 1304.

Analysis of Motion for Summary Judgment

Count I

In Count I, the People allege that Robert Wietholder 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 Robert Wietholder is a “person” who owned residential property that is a “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 – burn barrels, tires, mattresses, furniture, scrap metal, and other “discarded material” that constitute “waste” and “refuse.” Comp. at 2-4 (¶¶8, 11, 18). The Site was not permitted for waste disposal and was not 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 Robert Wietholder 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 therefore 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 Robert Wietholder violated Section 21(a) of the Act (415 ILCS 5/21(a) (2024)).

Count II

In Count II, the People allege that Robert Wietholder 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 Robert Wietholder owned the residential property in question and leased it to Desmond Jarvis, who operated a waste collection business there. Comp. at 2, 4-5 (¶¶6, 14, 21). IEPA never granted Robert Wietholder a permit to conduct a waste-disposal, waste-storage, or waste-treatment operation at the Site. *Id.* at 7 (¶31).

Inspections in September 2020 and March 2021 identified large accumulations of waste – tires, mattresses, furniture, scrap metal, construction debris, and other discarded materials – placed and maintained on the property in a manner constituting disposal, open dumping, and waste storage 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 the People's allegations in Count II. The record establishes that Robert Wietholder conducted or allowed a waste disposal, storage, and/or treatment operation at the Site without the required permit. The People are therefore 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 Robert Wietholder violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2024)).

Count III

In Count III, the People allege that Robert Wietholder 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 Robert Wietholder owned the Site, leased it to Desmond Jarvis for operation of a waste-collection business, and that the Site did not meet the requirements for waste disposal or storage. Comp. at 2, 4-5, 7, 9 (¶¶6, 14, 21, 31, 36). IEPA inspections documented accumulations of "discarded materials" –

including burn barrels, mattresses, furniture, and scrap metal – placed on land at the Site in a manner constituting “disposal” and constituting “waste” and “refuse.” *Id.* at 2-5 (¶¶8, 11, 18, 23). 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 Robert Wietholder, the Board finds no genuine issue of material fact as to the People’s allegations in Count III. The facts deemed admitted establish that Robert Wietholder 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, finding that Robert Wietholder violated Section 21(e) of the Act (415 ILCS 5/21(e) (2024)).

Count IV

The People allege in Count IV that Robert Wietholder 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 Robert Wietholder caused or allowed the open dumping of waste in violation of Section 21(a) of the Act. *Supra* at 9 (Count I). The discarded material – including mattresses, furniture, scrap metal, general construction and demolition debris, plastic waste, metal, fabric, televisions, lawn mower parts, and other miscellaneous waste – constitute “litter” as defined in Section 3(a) of the Litter Control Act. 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 Robert Wietholder 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, finding that Robert Wietholder violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2024)).

Count V

In Count V, the People allege that Robert Wietholder 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 14 (¶¶40, 42), *see* 415 ILCS 5/9(a), 9(c), 21(p)(3) (2024).

The facts deemed admitted establish that Robert Wietholder owned the Site, leased it to Desmond Jarvis for operation of a waste collection business, and that open burning occurred there. Comp. at 2, 4-5 (¶¶6, 14, 21). IEPA inspections documented burn areas, burn barrels, and charred remains of waste placed and ignited at the Site. *Id.* at 2-3, 13-14 (¶¶8, 11, 37-41). These activities caused or allowed the discharge or emission of contaminants into the environment, open burning in a manner not approved by the Board, and open dumping that resulted in open burning.

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

In evaluating the record to determine a remedy, including whether to impose a civil penalty, the Board considers the factors of 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 Robert Wietholder at the Site he owned. 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 Robert Weitholder’s 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 respondents 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 Robert Wietholder.

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 Robert Wietholder.

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 Robert Wietholder.

Robert Wietholder conducted waste disposal at a residential site unsuitable for such activity. His open dumping and open burning violations threatened human health and the environment and persisted for nearly two years. While proper disposal is technically practicable and economically reasonable, these violations undermined any of the social and economic benefit that proper disposal would have provided. Considering all the Section 33(c) factors, 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 Robert Wietholder.

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 Robert Wietholder “allowed open dumping of waste and open burning at the Site, which Robert Wietholder owned, and 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 Robert Wietholder “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 Robert Wietholder “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 Robert Wietholder and others. *Id.*

Fifth, the People stated that, to their knowledge, Robert Wietholder 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 Robert Wietholder “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 Robert Wietholder 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 Robert Wietholder.

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

Robert Wietholder 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 Robert Wietholder did not propose or perform a supplemental environmental project. The Board does not weigh these last three factors in favor of or against Robert Wietholder.

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.

After applying the statutory factors to the record in this case, including the duration and gravity of the violations, the resulting threat to human health and the environment, and the lack of diligence in complying, the Board finds that the requested civil penalty is appropriate and proportionate. Accordingly, the Board assesses a civil penalty of \$7,500 against Robert Wietholder and orders him to cease and desist from future violations of the Act.

CONCLUSION

The People filed a motion to deem facts admitted and for summary judgment against Robert Wietholder and Desmond Jarvis. The Board grants the People's unopposed motion to deem facts admitted against Robert Wietholder but denies the motion against Desmond Jarvis.

The case against Desmond Jarvis continues.

Based on the facts deemed admitted, the Board finds that there is no genuine issue of material fact and that the People are entitled to judgment as a matter of law against Robert Wietholder. The Board accordingly grants the People's motion for summary judgment against him. The Board finds 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 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.

After considering the factors in Sections 33(c) and 42(h) of the Act (415 ILCS 5/33(c), 42(h) (2024)), the Board enters an order, as requested by the People, requiring Robert Wietholder 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 finds that the record does not show that Desmond Jarvis has been served with the People's motion to deem facts admitted and for summary judgment and denies the motion against him.
2. The People's case against Desmond Jarvis continues.
3. The Board grants the unopposed motion to deem facts admitted and for summary judgment against Robert Wietholder and finds that he 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)), as alleged in the People's complaint.
4. Robert Wietholder must pay a civil penalty of \$7,500 no later than Monday, December 8, 2025, 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 checks or money order.
5. Robert Wietholder 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
6. 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)).
7. Robert Wietholder must 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 November 6, 2025, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board