

ILLINOIS POLLUTION CONTROL BOARD
August 18, 2005

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 04-63
)	(Site Code #0778095036)
EGON KAMARASY,)	AC 04-64
)	(Site Code #0778125013)
Respondent.)	(Administrative Citation)
)	(Consolidated)

DANIEL BRENNER, ASSISTANT STATE'S ATTORNEY, APPEARED ON BEHALF OF COMPLAINANT; and

GREGORY VEACH APPEARED ON BEHALF OF RESPONDENT.

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

Having received documentation of hearing costs in these consolidated administrative citation enforcement actions, the Board today issues its final opinion and order. On June 16, 2005, the Board issued an interim opinion and order, finding that respondent Egon Kamarasy (Kamarasy) violated numerous open dumping prohibitions of the Environmental Protection Act (Act) (415 ILCS 5 (2004)) at two sites in Jackson County. The violations were alleged in two separate administrative citations issued by the County of Jackson (County).

Specifically, in its interim opinion and order, the Board found that Kamarasy violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2004)) by causing or allowing the open dumping of waste resulting in litter and the deposition of general construction or demolition debris at a site in Makanda, Jackson County, referred to as the "Makanda site." The Board further found that Kamarasy violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)) by causing or allowing the open dumping of waste resulting in litter, open burning, and the deposition of general construction or demolition debris at a site in Pomona Township, Jackson County, referred to as the "Carbondale site."

In its June 16, 2005 decision, after the Board found the violations, the Board held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2004)), Kamarasy was subject to the statutorily-fixed \$1,500 civil penalty per violation, for a total civil penalty of \$7,500 for the five violations. In addition, the Board held that Kamarasy, by unsuccessfully contesting the administrative citations at hearing, also must pay the hearing costs of the County and the Board. The hearing on these consolidated administrative citations was held on November 22, 2004, at the Jackson County Health Department in Murphysboro.

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

On June 22, 2005, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$378.60, the entirety of which reflects the costs of court reporting. The Clerk served this documentation on Kamarasy, who did not respond. A statement of hearing costs from the County was due by July 6, 2005. The County, however, has not filed any such documentation. The Board finds that the County has therefore waived its right to hearing costs. *See County of Will v. Pinnick*, AC 97-17 (May 15, July 10, 1997) (County waived hearing costs by failing to address them).

The Board finds the hearing costs of the Board reasonable and below orders Kamarasy to pay those costs under Section 42(b)(4-5) of the Act. The Board incorporates by reference the findings of fact and conclusions of law from its June 16, 2005 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2004)), 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. Kamarasy violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2004)) at the Makanda site.
2. Kamarasy violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)) at the Carbondale site.
3. The Board assesses the statutory civil penalty of \$7,500 for the violations, as well as hearing costs totaling \$378.60, for a total amount due of \$7,878.60. Kamarasy must pay \$7,878.60 no later than October 3, 2005, which is the first business day following the 45th day after the date of this order. Kamarasy must pay this amount by certified check or money order, made payable to the Jackson County's Treasurer Office. The case numbers, case name, and Kamarasy's social security number or federal employer identification number must be included on the certified check or money order.
4. Kamarasy must send the certified check or money order to:

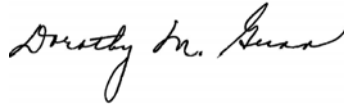
Shirley Dillinger Booker
Jackson County Treasurer
Murphysboro, Illinois 62966

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2004); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 18, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board