

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
)
vs.) AC 2019-
)
BRENT A. LUDWIG ESTATE,) (IEPA No. 124-18-AC)
Respondent.)

RECEIVED
CLERK'S OFFICE
OCT 03 2018
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To:

Illinois Pollution Control Board
ATTN: CLERK
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Illinois Environmental Protection Agency
ATTN: DIVISION OF LEGAL COUNSEL
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 61794-9276

PLEASE TAKE NOTICE that on this date I filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois the following on behalf of the BRENT A. LUDWIG ESTATE, and deposited same with FedEx addressed to the foregoing at the foregoing addresses, a copy of which is herewith served on you: (1) Entry of Appearance, (2) Petition for Review of Administrative Citation, and (3) Certificate of Service.

BRENT A. LUDWIG ESTATE, Respondent,

DATED this 1st day of October, 2018.

By: /s/ Dane C. Amundson
Dane C. Amundson, One of its Attorneys

Dane C. Amundson, ARDC #6308480
Meyer Capel, A Professional Corporation
306 W. Church Street
Champaign, Illinois 61820
Phone: 217.352.1800
Fax: 217.352.1083
damundson@meyercafel.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
)
vs.) AC 2019-
)
BRENT A. LUDWIG ESTATE,) (IEPA No. 124-18-AC)
Respondent.)

RECEIVED
CLERK'S OFFICE

OCT 03 2018

STATE OF ILLINOIS
Pollution Control Board

ENTRY OF APPEARANCE

NOW COME Dane C. Amundson and Meyer Capel, A Professional Corporation, and hereby enter their appearance on behalf of the BRENT A. LUDWIG ESTATE in the above-captioned matter.

BRENT A. LUDWIG ESTATE, Respondent,

DATED this 1st day of October, 2018.

By: /s/ Dane C. Amundson
Dane C. Amundson, One of its Attorneys

Dane C. Amundson, ARDC #6308480
Meyer Capel, A Professional Corporation
306 W. Church Street
Champaign, Illinois 61820
Phone: 217.352.1800
Fax: 217.352.1083
damundson@meyercafel.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
)
vs.) AC 2019-)
)
BRENT A. LUDWIG ESTATE,) (IEPA No. 124-18-AC)
Respondent.)

RECEIVED
CLERK'S OFFICE
OCT 03 2018
STATE OF ILLINOIS
Pollution Control Board

PETITION FOR REVIEW OF ADMINISTRATIVE CITATION

NOW COMES the Respondent, BRENT A. LUDWIG ESTATE, by Meyer Capel, A Professional Corporation, its attorneys, and hereby petition the Illinois Pollution Control Board for a review of the above-cited Administrative Citation, Affidavit, and Open Dump Inspection Checklist ("Administrative Citation") issued by the Illinois Environmental Protection Agency ("IEPA") pursuant to 415 ILCS 5/31.1. Respondent asserts that the Administrative Citation was improperly issued against the Respondent for the reasons set forth herein:

1. On or about August 29, 2018, the IEPA filed its Administrative Citation alleging violations of the Illinois Environmental Protection Act at a property located at 1324 CR 500 E, Champaign, Champaign County, IL ("the Property").

2. The Inspection Report attached to the Administrative Citation asserted that the alleged violations arose out of dumping and/or burning of solid waste and/or construction debris on the Property.

3. Respondent is not the owner of the Property, nor does Respondent control or operate business on the Property.

4. In fact, the BRENT A. LUDWIG ESTATE does not exist and was never opened after Brent A. Ludwig passed away on August 31, 2007.

5. Prior to August 31, 2017, the Property was owned in Joint Tenancy by Brent A. Ludwig and Brad A. Ludwig pursuant to a Quit Claim Deed recorded in Champaign County on March 27, 2006, as Document No. 2006R07150.

6. As a result of the passing of Brent A. Ludwig on August 31, 2007, and the Property being owned in Joint Tenancy, the Property's owner since August 31, 2007, has at all times been Brad A. Ludwig.

7. As a result, the named Respondent to the above-cited Administrative Citation is the wrong party against whom to assert any alleged violations.

8. Moreover, the owner of the Property has been the victim of illegal and unauthorized dumping by unknown individuals and/or entities.

9. Specifically, the debris and "restaurant or café booths made of wood with vinyl covered cushions, rolls of paper/vinyl and painted lumber" noted in the Inspection Report attached to the Administrative Citation were dumped on the Property by unknown individuals and/or entities, not the owner of the Property.

10. The owner of the Property does not own, operate, or control any restaurant or café businesses, nor has it possessed any of the materials alleged to have been debris dumped on the Property.

11. Further, the Property does not have any person or entity that resides upon the property, is unoccupied, is located in a rural area with low traffic in the vicinity and little monitoring, and has had little security measures in place in the past.

12. Therefore, the alleged violations were the result of uncontrollable circumstances, as demonstrated by the foregoing facts.

13. Respondent did not intentionally cause or allow the alleged violations, as demonstrated by the foregoing facts.

14. The owner of the Property will be installing greater security measures in an attempt to prevent potential trespassers from coming onto the Property and illegally dumping debris onto the Property.

15. The imposition of the \$4,500.00 penalty as proposed would not only be ineffective against the non-existent Respondent, but would result in an arbitrary or unreasonable financial hardship for the Property owner in light of the foregoing facts.

WHEREFORE, the Respondent, BRENT A. LUDWIG ESTATE, requests that the Administrative Citation filed herein be dismissed or, alternatively, a hearing before the Illinois

Pollution Control Board be held in order to contest the Administrative Citation, and for any other such relief as the Board deems proper.

BRENT A. LUDWIG ESTATE, Respondent,

DATED this **1st** day of October, 2018.

By: /s/ Dane C. Amundson
Dane C. Amundson, One of its Attorneys

Dane C. Amundson, ARDC #6308480
Meyer Capel, A Professional Corporation
306 W. Church Street
Champaign, Illinois 61820
Phone: 217.352.1800
Fax: 217.352.1083
damundson@meyercafel.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
)
vs.) AC 2019-)
)
BRENT A. LUDWIG ESTATE,) (IEPA No. 124-18-AC)
Respondent.)

RECEIVED
CLERK'S OFFICE
OCT 03 2018
STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on the below date, he served copies of the following: (1) Entry of Appearance, (2) Petition for Review of Administrative Citation, and (3) Notice of Filing, by FedEx with the Clerk of the Illinois Pollution Control Board of the State of Illinois and by FedEx addressed to:

Illinois Pollution Control Board
ATTN: CLERK
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Illinois Environmental Protection Agency
ATTN: DIVISION OF LEGAL COUNSEL
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62702

BRENT A. LUDWIG ESTATE, Respondent,

DATED this 1st day of October, 2018.

By: /s/ Dane C. Amundson
Dane C. Amundson, One of its Attorneys

Dane C. Amundson, ARDC #6308480
Meyer Capel, A Professional Corporation
306 W. Church Street
Champaign, Illinois 61820
Phone: 217.352.1800
Fax: 217.352.1083
damundson@meyercafel.com