

ILLINOIS POLLUTION CONTROL BOARD  
October 18, 2018

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 19-5
	)	(IEPA No. 124-18-AC)
BRENT A. LUDWIG ESTATE,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by B.K. Carter):

On September 6, 2018, Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against the Brent A. Ludwig Estate. *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.200. The administrative citation concerns the residential property located at 1324 County Road 500 East in Champaign, Champaign County. The property is commonly known to the Agency as the “Champaign/Ludwig, Brent A. Estate” site and is designated with Site Code No. 0198205009. For the reasons below, the Board accepts petition on behalf of the Ludwig Estate to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2016); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on July 3, 2018, Ludwig’s Estate violated Section 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), & (p)(7) (2016)) by causing or allowing the open dumping of waste in a manner that resulted in litter, open burning, and deposition of general construction or demolition debris or clean construction or demolition debris at the Champaign County site. The Agency asks the Board to impose on the Estate the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$4,500.

As required, the Agency served the administrative citation on Ludwig’s Estate within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2016); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by October 3, 2018. On October 3, 2018, Ludwig’s Estate timely filed a petition. *See* 415 ILCS 5/31.1(d) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b). Ludwig’s Estate alleges that it did not cause or allow the alleged violations and that it is not the owner of the property in question and, therefore, the allegations are alleged against the wrong party. *See* 35 Ill. Adm. Code 108.206.

The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2016). Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 108.300(d).

By contesting the administrative citation, Ludwig's Estate may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2016); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504. Ludwig's Estate may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Ludwig's Estate chooses to withdraw its petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Ludwig's Estate withdraws its petition after the hearing starts, the Board will require the Estate to pay the hearing costs of the Board and the Agency. *See id.* at 108.500(c).

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2016); 35 Ill. Adm. Code 108.400. If the Board finds that Ludwig's Estate violated Section 21(p)(1), (p)(3), and (p)(7), the Board will impose civil penalties on the Estate. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2016); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Ludwig's Estate "has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2016); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 18, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, flowing style.

Don A. Brown, Clerk  
Illinois Pollution Control Board