

ILLINOIS POLLUTION CONTROL BOARD

September 5, 2013

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 13-28
	)	(IEPA No. 304-12-AC)
RAY A. HEWERDINE,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.D. O'Leary):

On January 10, 2013, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ray A. Hewerdine. *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 1700 East County Road in Ludlow Township, Champaign County. The property is commonly known to the Agency as the "Ludlow/Hewerdine, Ray A." site and is designated with Site Code No. 0198115004. The Agency alleged that on November 29, 2012, Mr. Hewerdine violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter and open burning.

On February 14, 2013, Mr. Hewerdine timely filed a petition to contest the administrative citation. On February 21, 2013, the Board accepted Mr. Hewerdine's petition for hearing. The case has not been to hearing but the parties have participated in several telephonic status conferences conducted by the hearing officer.

On August 28, 2013, the Agency filed a motion to withdraw the administrative citation. In the motion, the Agency states that "[b]ased upon facts and circumstances discovered since the filing of the Administrative Citation, [the Agency] has determined that it is prudent to withdraw this Administrative Citation at this time." Motion at 1. The Board grants the Agency's motion, which renders moot Mr. Hewerdine's petition. *See IEPA v. Donald G. Wilkey*, AC 09-19, slip op. at 1 (Jan. 7, 2010). The Board therefore dismisses this case and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 5, 2013, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

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John T. Therriault, Clerk  
Illinois Pollution Control Board

## ADMINISTRATIVE CITATION

(IEPA No. 304-12-AC)

4. That on November 29, 2012, Mike Mullins of the Illinois Environmental Protection Agency's ("Illinois EPA") Champaign Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 1-8-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7010 2780 0002 1167 5584.

#### VIOLATIONS

Based upon direct observations made by Mike Mullins during the course of his November 29, 2012 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2010).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than February 15, 2013, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2010), and if the Illinois

Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2010), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2010). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

  
\_\_\_\_\_  
John J. Kim, Interim Director  
Illinois Environmental Protection Agency

Date: 1/21/13

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

RECEIVED  
CLERK'S OFFICE

JAN 10 2013

STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

v.

RAY A. HEWERDINE,

Respondent.

AC

(IEPA No. 304-12-AC)

FACILITY: Ludlow/Hewerdine, Ray A.

SITE CODE NO.: 0198115004

COUNTY: Champaign

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: November 29, 2012

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.