

ILLINOIS POLLUTION CONTROL BOARD
September 18, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 15-9
)	(IEPA No. 275-14-AC)
PONDEROSA LAND TRUST,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by D. Glosser):

On August 22, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ponderosa Land Trust. *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Ponderosa Land Trust’s property located at 305 1/2 Carbon Street in Marion, Williamson County. The property is commonly known to the Illinois Environmental Protection Agency as the “Ponderosa Land Trust” site and is designated with Site Code No. 1990555227. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), 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) (2014); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on July 24, 2014, Ponderosa Land Trust violated Sections 21(p)(1), 21(p)(5), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1)(p)(5), and 55(k)(1)(2014)) by causing or allowing the open dumping of waste in a manner resulting in litter, proliferation of disease vectors, and water accumulating in used or waste tires at the Williamson County site. The Agency asks the Board to impose on Ponderosa Land Trust the statutory \$3,000 civil penalty for Section 21(p)(1) and 55(k)(1). Ponderosa Land Trust is also subject to a civil penalty of \$1,500 for the violation of Section 21(p)(5). The total civil penalty due is \$7,500.

As required, the Agency served the administrative citation on Ponderosa Land Trust within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2014); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by September 26, 2014. On September 15, 2014, Ponderosa Land Trust timely filed a petition. *See* 415 ILCS 5/31.1(d) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b). Ponderosa Land Trust alleges clean-up from the previous violation (11-14-AC) was underway; the truck on the property is not abandoned; there was no landscape waste on the property. Instead, it is

currently being utilized as an active landscape storage facility; there was no waste or refuse present on Ponderosa Land Trust property; and the fines assessed are not appropriate to the claimed violations, are not provided for by rule or statute, and are excessive. *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) (2014). By contesting the administrative citation, Ponderosa Land Trust may have to pay the hearing costs of the Board and the Illinois Environmental Protection Agency. *See* 415 ILCS 5/42(b)(4-5) (2014); 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. *See* 35 Ill. Adm. Code 108.504.

Ponderosa Land Trust may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Ponderosa Land Trust 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 Ponderosa Land Trust withdraws its petition after the hearing starts, the Board will require Ponderosa Land Trust to pay the hearing costs of the Board and the Illinois Environmental Protection Agency. *See id.* at 108.500(c).

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2014); 35 Ill. Adm. Code 108.400. If the Board finds that Ponderosa Land Trust violated Section 21(p)(1), 21(p)(5), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(5), 55(k)(1)(2014) (2014)), the Board will impose civil penalties on Ponderosa Land Trust. The civil penalty for violating any provision of Section 21(p), 22.51, 22.51a, or 55(k) 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) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Ponderosa Land Trust "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) (2014); *see also* 35 Ill. Adm. Code 108.500(b).

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 18, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board