

ILLINOIS POLLUTION CONTROL BOARD
January 21, 2015

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 2015-009
)	(IEPA File No. 275-14-AC)
PONDEROSA LAND TRUST,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. On August 22, 2014, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against Ponderosa Land Trust (Ponderosa). IEPA alleged that on July 24, 2014 Ponderosa violated Sections 21(p)(1), 21(p)(5), and 55(k)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(5), 55(k)(1) (2014)) by open dumping waste which resulted in litter and the proliferation of disease vectors while allowing water to accumulate in used or waste tires. The violations allegedly took place at the Ponderosa property located at 305½ Carbon Street, Marion in Williamson County. The property is referred to by the IEPA as “Ponderosa Land Trust” and is designated with Site Code No. 1990555227.

The Board accepted Ponderosa’s petition for review on September 18, 2014. On December 24, 2015, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review” (Stip.). Under its terms, Ponderosa admits to violating Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)) by open dumping waste resulting in litter, and agrees to pay the statutory civil penalty of \$1,500 for the violation. Stip. at 2. Ponderosa also agrees to the dismissal of its petition contesting the administrative citation. *Id.* at 3. The stipulation further states that “violations observed during the July 24, 2014 inspection are not continuing at this time.” *Id.* at 2. In addition, the IEPA agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.* at 2-3.

The Board accepts the stipulation and proposal for settlement and finds that Ponderosa violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2014). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2014)) establishes, and the Board assesses, a civil penalty of \$1,500 for a violation of this type.

This opinion constitutes the Board’s findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Ponderosa Land Trust (Ponderosa) violated Section 21(p)(1) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) (2014).
3. Ponderosa must pay a civil penalty of \$1,500 no later than February 22, 2016 which is the first business day following the 30th day after the date of this order. Ponderosa must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Ponderosa's federal tax identification number must be included on the certified check or money order.
4. Ponderosa must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2014).
6. The Board dismisses the alleged violations of Sections 21(p)(5) and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 55(k)(1) (2014)) and Ponderosa's petition to contest the administrative citation.

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) (2014); *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, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 21, 2016 by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

ADMINISTRATIVE CITATION

AUG 22 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Complainant,)
)
 v.)
)
 PONDEROSA LAND TRUST,)
)
)
)
)
)
 Respondent.)

AC 15-9
 (IEPA No. 275-14-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2014).

FACTS

1. That Ponderosa Land Trust is the current owner of a facility located at 305 ½ Carbon Street, Marion, Williamson County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Ponderosa Land Trust.
2. That said facility is designated with Site Code No. 1990555227.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on July 24, 2014, Garrison Gross and Phillip Pierce-Savoie of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion Regional Office inspected the above-described facility. A copy of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 8-19-14, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 9415.

VIOLATIONS

Based upon direct observations made by Garrison Gross and Phillip Pierce-Savoie during the course of the July 24, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent 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)(2014).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in proliferation of disease vectors, a violation of Section 21(p)(5) of the Act, 415 ILCS 5/21(p)(5)(2014).
- (3) That Respondent caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2014).

CIVIL PENALTY

On March 20, 2014, the Board found Ponderosa Land Trust in violation of Sections 21(p)(1) and 55(k)(1) of the Act in AC 14-31.

Because this Administrative Citation addresses a second or subsequent violation of Sections 21(p)(1) and 55(k)(1) of the Act, pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5)

(2014), Respondent is subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for each violation for a total of Six Thousand Dollars (\$6,000.00). Additionally, pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the violation of Section 21(p)(5). The total civil penalty due is Seven Thousand Five Hundred Dollars (\$7,500.00). 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 October 7, 2014, 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 (2014), 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 Seven Thousand Five Hundred Dollars (\$7,500.00) statutory civil penalty.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2014), 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, Respondents' 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 (2014). 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.

Lisa Bonnett ^{for}

Date:

8-15-14

Lisa Bonnett, Director
Illinois Environmental Protection Agency

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

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE
AUG 22 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
PONDEROSA LAND TRUST,)
Respondent.)

AC 15-9
(IEPA No. 275-14-AC)

FACILITY: Ponderosa Land Trust
SITE CODE NO.: 1990555227
COUNTY: Williamson
CIVIL PENALTY: \$7,500.00
DATE OF INSPECTION: July 24, 2014

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.