

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

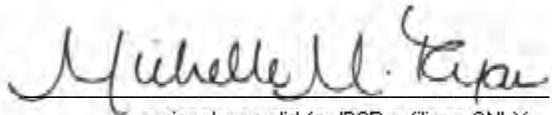
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
)	
Complainant,)	AC 2023-
)	
v.)	(IEPA No. 36-23-AC)
)	
CODY SMITH)	
)	
)	
Respondent.)	
)	

NOTICE OF FILING

To: Cody Smith
P.O. Box 54
Browning, IL 62624

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,


e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: March 23, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	AC 2023-
)	
v.)	(IEPA No. 36-23-AC)
)	
CODY SMITH,)	
)	
)	
)	
Respondent.)	

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 (2020).

FACTS

1. That Cody Smith (Respondent) is the present owner and operator of a facility located at 201 Massachusetts Street, Browning, Schuyler County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Browning/Smith Cody.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1690055005.
3. That Respondent has operated said facility at all times pertinent hereto.
4. That on February 14, 2023, Douglas Johnson of the Illinois Environmental Protection Agency's Springfield 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 March 23, 2023, Illinois EPA sent this Administrative Citation via Certified Mail No. 7015 0640 0005 6905 7920.

VIOLATIONS

Based upon direct observations made by Douglas Johnson during the course of his February 14, 2023 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) (2020).
- (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) (2020).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2020), 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 May 22, 2023, 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 (2020), 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) (2020), 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 (2020). If Respondent elects to contest this Administrative Citation, then Respondent shall file a 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, Director
Illinois Environmental Protection Agency

Date: 3/21/23

Prepared by: Dawn A. Hollis, 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

ILLINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Complainant,)	AC 2023-
)	
v.)	(IEPA No. 36-23-AC)
)	
CODY SMITH,)	
)	
)	
)	
Respondent.)	

FACILITY:	Browning/Smith Cody	SITE CODE NO.:	1690055005
COUNTY:	Schuyler	CIVIL PENALTY:	\$3,000.00
DATE OF INSPECTION:	February 14, 2023		

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.

Bureau of Land – Field Operations Section

Inspection Report

General Facility Information

BOL ID	1690055005	Evaluation Date	2/14/2023
USEPA Id	N/A	Region	Springfield
Site Name	Smith Cody	County	Schuyler
Address	201 Massachusetts St.	Phone	217-322-8545
City/State/Zip	Browning, IL 62624	EJ Status	No
Limited English	<input type="checkbox"/>	Primary Language	

Observations

Time	1100-1130 hours
Weather Conditions	Overcast/Cloudy Skies w/4 mph northwest wind
Temperature	49 Fahrenheit
Photos Taken	yes
Samples Collected	no
Complaint Id	6073

Evaluation Type

Solid Waste Program - Open Dump Inspection

Owner

Cody Smith
 P.O. Box 54
 Browning, IL 62624

Operator

Cody Smith
 P.O. Box 54
 Browning, IL 62624

Inspection Participants

<u>Person</u>	<u>Affiliation</u>	<u>Phone</u>
Douglas Johnson	IEPA FOS Primary Inspector	(217) 782-0444

Persons Interviewed

<u>Person</u>	<u>Phone</u>	<u>E-Mail</u>
Smith, Cody	217-322-8545	

Permit

<u>Application Date</u>	<u>Log #</u>	<u>Issue Date</u>	<u>Expiration Date</u>	<u>Mod/Sp #</u>	<u>Mod/Sp Date</u>
NONE					

Active Enforcement Orders

<u>CACO</u>	<u>Consent Decree</u>	<u>CAFO</u>	<u>IPCB</u>	<u>Federal Court</u>	<u>State Court</u>
NONE					

Executive Summary

On February 14, 2023, Illinois Environmental Protection Agency (Illinois EPA) Bureau of Land/Field Operations Section (BOL/FOS) Field Inspector Douglas Johnson, conducted an inspection of the Cody Smith site located at 201 Massachusetts Street in Browning, Illinois. This inspection was in response to IEPA complaint #6073, which alleged that an individual tore down a house with a backhoe several months ago and then decided to burn the house on the morning of January 22, 2023.

As a result of this inspection, I observed and documented apparent violations of the Illinois Environmental Protection Act (Act) and Illinois Administrative Code (Ill. Adm. Code) as they pertain to open burning and open dumping. Please refer to the Summary of Apparent Violation(s) table at the end of this report for a list of apparent violations.

Evaluation Narrative

The February 14, 2023, inspection of the Cody Smith site was conducted from 1100-1130 hours. The surrounding area is comprised of residential properties. The Schuyler County Assessment Office's parcel report indicates that the property is owned by Cody Smith. A copy of the parcel report is provided as an attachment.

I arrived on site at approximately 1100 hours and parked the state vehicle on Massachusetts Street, directly across from the subject property. Once parked, I proceeded on foot to the entrance of the site. Photograph 1 shows the view of the property from Massachusetts Street. Immediately upon entering the site, I observed a demolished on-site residence that appeared to have been recently burned (photographs 2-7). As I walked around the perimeter of the site, I observed clay bricks, concrete cinder blocks, insulation material, household waste, broken glass, scrap metal, and dimensional lumber inside the foundation of the building (photographs 8-13). I also observed burnt landscape waste that was intermingled with insulation material and other debris around the outside of the foundation (photograph 14). I observed demolition waste that illustrates that the residence was razed prior to the burning of the structure along the outside of the foundation (photograph 15). After completing this inspection, I departed from the site at approximately 1130 hours.

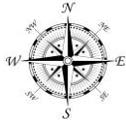
Following the February 14, 2023, inspection, I spoke with Burl Boyd, the village president of Browning, Illinois, via phone call on March 2, 2023. According to Mr. Boyd, the residence was demolished approximately three months ago and then was set on fire the morning of January 22, 2023. Mr. Boyd also stated that no fire departments were dispatched to this fire.

After I spoke to Mr. Boyd, I searched the site address using Google Earth Pro to get an aerial view of the subject property. The imagery, which is dated November 2, 2022, appears to show the demolished on-site residence prior to being burned. I also searched the site address using Schuyler County's GIS website. The imagery from this website appears to show the on-site residence prior to demolition. The imagery date is not provided on Schuyler County's GIS website. A screenshot of the Google Earth Pro imagery and a screenshot of the Schuyler County's GIS website imagery are provided as attachments.

On March 3, 2023, I spoke with Cody Smith, who is the current owner and operator of the subject property, via phone call. I informed Mr. Smith of the complaint (#6073) that had been filed with the Illinois EPA and asked Mr. Smith to explain what activity had taken place at the subject property. Mr. Smith stated that he tore down the on-site residence approximately one year ago, using a backhoe. Prior to the demolition, Mr. Smith stated that some materials such as roofing material and lumber were taken out of the residence. Mr. Smith then stated that he burned the demolished on-site residence within the last two months of this year (2023) and that there was still snow on the ground at the time of the burn. Following the burn, Mr. Smith stated that scrap metal and other material had been taken off-site. After hearing this information, I informed Mr. Smith that the burning of a building or structure for disposal would be an apparent violation of the Illinois Environmental Protection Act.

Below is a table listing apparent violations, with a narrative summary, of the Illinois Environmental Protection Act that were observed and documented during the February 14, 2023, inspection.

Status	Date	Violation	Narrative
New	2/14/2023	9(a)	Cause, threaten or allow air pollution in Illinois
New	2/14/2023	9(c)	Cause or allow open burning
New	2/14/2023	21(a)	Cause or allow open dumping
New	2/14/2023	21(e)	Dispose, treat, store, abandon any waste, or transport any waste into Illinois at or to sites not meeting requirements of the Act
New	2/14/2023	21(p)(1)	Cause or allow open dumping of any waste in a manner which results in litter
New	2/14/2023	21(p)(3)	Cause or allow open dumping of any waste in a manner which results in open burning





Bureau Id: 1690055005
Photo No.: 1
Photo Date: 2/14/2023
Photo Time: 11:12:23 AM
Direction: west
Taken By: Douglas Johnson

A view of the subject property from Massachusetts Street, which shows a demolished on-site residence that appeared to have been recently burned.



Bureau Id: 1690055005
Photo No.: 2
Photo Date: 2/14/2023
Photo Time: 11:12:38 AM
Direction: west
Taken By: Douglas Johnson

A closer view of the demolished on-site residence and debris that appeared to have been recently burned. The debris shown in this photograph consisted of concrete cinder blocks, clay bricks, wood, and landscape waste.



Bureau Id: 1690055005

Photo No.: 3

Photo Date: 2/14/2023

Photo Time: 11:13:22 AM

Direction: west

Taken By: Douglas Johnson

Another view of the demolished on-site residence and debris. The debris shown in this photograph consisted of clay bricks, dimensional lumber, and siding material.



Bureau Id: 1690055005

Photo No.: 4

Photo Date: 2/14/2023

Photo Time: 11:13:38 AM

Direction: north

Taken By: Douglas Johnson

A view of the demolished on-site residence and debris, facing to the north direction.



Bureau Id: 1690055005
Photo No.: 5
Photo Date: 2/14/2023
Photo Time: 11:13:56 AM
Direction: north
Taken By: Douglas Johnson

Overview of the demolished on-site residence and debris with Massachusetts Street in the background



Bureau Id: 1690055005
Photo No.: 6
Photo Date: 2/14/2023
Photo Time: 11:14:10 AM
Direction: east
Taken By: Douglas Johnson

Another view of the demolished on-site residence and debris, facing to the east direction.



Photo No.: 7
Photo Date: 2/14/2023
Photo Time: 11:14:26 AM
Direction: east
Taken By: Douglas Johnson

A closer view of burnt debris consisting of concrete cinder blocks, siding material, and dimensional lumber.



Bureau Id: 1690055005
Photo No.: 8
Photo Date: 2/14/2023
Photo Time: 11:14:27 AM
Direction: east
Taken By: Douglas Johnson

Another view of the demolished on-site residence and debris.

Bureau Id: 1690055005

Photo No.: 9

Photo Date: 2/14/2023

Photo Time: 11:14:35 AM

Direction: east

Taken By: Douglas Johnson



A pile of mixed metals near the foundation of the on-site residence.



Bureau Id: 1690055005

Photo No.: 10

Photo Date: 2/14/2023

Photo Time: 11:14:43 AM

Direction: east

Taken By: Douglas Johnson

Partially burnt insulation material near the foundation of the on-site residence.

Bureau Id: 1690055005

Photo No.: 11

Photo Date: 2/14/2023

Photo Time: 11:14:51 AM

Direction: south

Taken By: Douglas Johnson



A view of debris inside the foundation of the on-site residence, which consisted of clay bricks, dimensional lumber, and miscellaneous household waste.



Bureau Id: 1690055005

Photo No.: 12

Photo Date: 2/14/2023

Photo Time: 11:15:21 AM

Direction: south

Taken By: Douglas Johnson

A view of household waste inside the foundation of the on-site residence



Bureau Id: 1690055005

Photo No.: 13

Photo Date: 2/14/2023

Photo Time: 11:17:37 AM

Direction: west

Taken By: Douglas Johnson

A closer view of a garbage bag inside the foundation of the on-site residence.



Bureau Id: 1690055005

Photo No.: 14

Photo Date: 2/14/2023

Photo Time: 11:17:25 AM

Direction: west

Taken By: Douglas Johnson

Burnt landscape waste that was intermingled with insulation material and other debris around the outside of the foundation.

Bureau Id: 1690055005

Photo No.: 15

Photo Date: 2/14/2023

Photo Time: 11:14:19 AM

Direction: east

Taken By: Douglas Johnson



Demolition waste, along the outside of the foundation, illustrates that the residence was razed prior to the burning of the structure.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 · (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

IEPA DOCKET NO.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

vs.

Cody Smith,
Respondent

AFFIDAVIT

Affiant, Douglas Johnson, being first duly sworn, voluntarily deposes and states as follows:

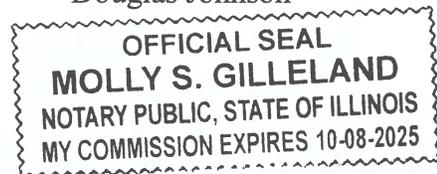
1. Affiant is a field inspector employed by the Bureau of Land of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On February 14, 2023, between 1100 and 1130 hours, Affiant conducted an inspection of the site in Schuyler County, Illinois, known as Smith Cody, located at 201 Massachusetts Street Browning, Illinois 62624 and designated Bureau of Land Site # 1690055005.
3. Affiant inspected said site by an on-site inspection, which included walking the site.
4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Report attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to the site.

Subscribed and Sworn to before me
this 7 day of March,

Notary Public

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

Douglas Johnson



2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

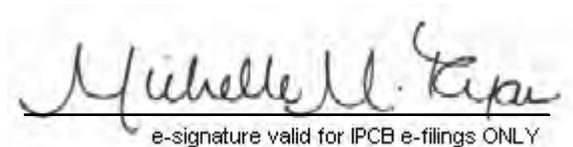
PROOF OF SERVICE

I hereby certify that I did on the 23rd day of March, 2023, serve with postage thereon prepaid, by depositing in a United States Post Office box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Cody Smith
P.O. Box 54
Browning, IL 62624

and the original via electronic filing on March 23, 2023

To: Don Brown, Clerk
Pollution Control Board
60 E. Van Buren St., Ste. 630
Chicago, IL 60605



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544