



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

(217) 782-9817  
TDD: (217) 782-9143

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SEP 14 2010  
STATE OF ILLINOIS  
Pollution Control Board

September 7, 2010

John Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

AC11-8

ORIGINAL

Re: Illinois Environmental Protection Agency v. August Oelschlager  
IEPA File No. 260-10-AC; 1058235002—Livingston County

Dear Mr. Therriault:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Ryan  
Assistant Counsel

Enclosures



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

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SEP 14 2010  
STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
AUGUST OELSCHLAGER, )  
 )  
 )  
 )  
Respondent. )

AC 11-8  
(IEPA No. 260-10-AC)

ORIGINAL

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 (2006).

FACTS

1. That August Oelschlager is the current owner and operator ("Respondent") of a facility located at 8684 E. 1700 North Road, Graymont, Livingston County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Graymont\Oelschlager.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1058235002.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on July 27, 2010, Dustin Burger 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 9-7-10, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 0220 0000 0152 3458.

#### VIOLATIONS

Based upon direct observations made by Dustin Burger during the course of his July 27, 2010 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) (2006).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), 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 One Thousand Five Hundred Dollars (\$1,500.00). 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 15, 2010, 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 (2006), 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) (2006), if Respondent fails to petition or elect 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 (2006). 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.

  
Douglas P. Scott, Director  
Illinois Environmental Protection Agency

Date: 9/7/2016

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

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**SEP 14 2010**  
**STATE OF ILLINOIS**  
**Pollution Control Board**

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
AUGUST OELSCHLAGER, )  
 )  
 )  
 )  
 )  
 )  
Respondent. )

AC 11-8  
(IEPA No. 260-10-AC)

ORIGINAL

FACILITY: Graymont\Oelschlager  
COUNTY: Livingston  
DATE OF INSPECTION: July 27, 2010

SITE CODE NO.: 1058235002  
CIVIL PENALTY: \$1,500.00

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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CLERK'S OFFICE

SEP 14 2010

STATE OF ILLINOIS  
Pollution Control Board

AFFIDAVIT

IN THE MATTER OF: )  
)  
)  
)  
)  
August Oelschlager )  
)  
)  
)  
Respondent )

IEPA DOCKET NO.

ORIGINAL

Affiant, Dustin Burger, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.

2. On July 27, 2010, at 12:30 P.M., Affiant conducted an inspection of the site in Livingston County, Illinois, known as Graymont/Oelschlager, Illinois Environmental Protection Agency Site No. 1058235002.

3. Affiant inspected said Garymont/Oelschlager site by an on-site inspection which included photographing the site.

4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Report form 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 Oelschlager site.

Dustin Burger

Subscribed and Sworn to before me  
this 19<sup>th</sup> day of August, 2010

Sharon L. Barger  
Notary Public



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**  
**Open Dump Inspection Checklist**

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**SEP 14 2010**  
**STATE OF ILLINOIS**  
**Pollution Control Board**

County: Livingston      LPC#: 1058235002      Region: 4 - Champaign  
 Location/Site Name: Graymont/Oelschlager  
 Date: 07/27/2010    Time: From 12:30P    To 1:00 P.M.    Previous Inspection Date: 05/06/2009  
 Inspector(s): Dustin Burger      Weather: Clear, dry, 80s  
 No. of Photos Taken: # 5    Est. Amt. of Waste: 200 yds<sup>3</sup>    Samples Taken: Yes # \_\_\_\_\_ No   
 Interviewed: \_\_\_\_\_      Complaint #: C05--CH

Responsible Party  
 Mailing Address(es)  
 and Phone  
 Number(s):  
August Oelschlager  
Post Office Box 105  
Graymont, Illinois 61743  
815/678-7770

**ORIGINAL**

SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>		
1.	9(a) CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c) CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a) CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d) CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a) CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d) CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1) Without a Permit	<input checked="" type="checkbox"/>
	(2) In Violation of Any Regulations or Standards Adopted by the Board	<input checked="" type="checkbox"/>
7.	21(e) DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT	<input checked="" type="checkbox"/>
8.	21(p) CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	
	(1) Litter	<input checked="" type="checkbox"/>
	(2) Scavenging	<input type="checkbox"/>
	(3) Open Burning	<input type="checkbox"/>
	(4) Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5) Proliferation of Disease Vectors	<input type="checkbox"/>
	(6) Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC # 1058235002--Oelschlager

Inspection Date: 07/27/2010

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
14.		APPARENT VIOLATION OF: ( <input type="checkbox"/> ) PCB; ( <input type="checkbox"/> ) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>

\_\_\_\_\_  
Signature of Inspector(s)

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

**Illinois Environmental Protection Agency**  
Bureau of Land ♦ Field Operations Section ♦ Champaign

LPC#1058235002--Livingston County  
Graymont/Oelschlager  
FOS File  
July 27, 2010  
Inspector: Dustin Burger

**Narrative Inspection Report**

I conducted an open dumping inspection at the above referenced property on July 27, 2010 from approximately 12:30 P.M. until 1:00 P.M. This inspection was conducted to determine the regulatory status and evaluate compliance with the Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). Five photos and no samples were taken. The weather was clear and calm, with temperatures in the 80s.

**Site History**

Champaign FOS received a complaint in 2004 from the local county health department that this site had a vast quantity of material stored on it. The caller said the owner had collected plastic bottles, aluminum cans, and other material to recycle, but now had vehicles, corn cribs, and buildings stuffed full of the material. An inspection of October 21, 2004 found various materials scattered across the property, including paper, cardboard, wood, plastic, clothes, glass. Mr. Oelschlager said at the time he planned to recycle the material on his property, but it "got out of hand."

Oelschlager said in 2004 he would take several bags of waste at a time into town and drop them off in a dumpster at a gas station. I informed him that dumping his waste in other people's dumpsters was illegal, and he would likely have to hire a waste disposal company with a roll-off box to remove the material. Mr. Oelschlager stated he was retired and did not have the money to pay the several hundred dollars a company would charge for a roll-off box.

A reinspection on November 17, 2008 found that obviously non-recyclable waste that was present previously had been removed, but new recyclable and household material had been added. In an area near an equipment shed, various recyclable materials such as glass, aluminum, plastic, and paper had been stacked in a disorderly fashion. Oelschlager had dozens of plastic totes scattered around the site, but in piles and placed in overgrown areas. I opened a few, finding them filled with everything from papers and magazines to holiday decorations. Several vehicles parked around the site were filled with paper, plastic, and various items. Every building on the site was filled with miscellaneous debris. The back door of the house was inaccessible because of the debris piled on the porch. I could see boxes piled in the windows of both floors of the house. Both the

equipment shed and two barns had material piled inside. Materials were visible poking out between slats in the barn and in the barn's overhang.

A reinspection on May 6, 2009 found the site essentially the same as my November 11, 2008 visit. The site still had scattered areas of recyclable materials, plastic totes and trash cans of miscellaneous household items that looked like they were from a garage sale or auction, Both outbuildings and a house were filled with paper, plastic, and household items. The main difference between this visit and the visit in 2008 is that there was a dumpster on-site filled with cardboard and other wastes.

### **Current Inspection**

A reinspection on July 27, 2010 found the site in the same state as the May 2009 visit. The pile of recyclable materials outside the quansit hut did not look like it has been touched in the last year, and now has weeds now growing around and through the material (see photos 1-2). The vehicles still have their passenger compartments full of paper, plastic, and cardboard, and miscellaneous items. The 30+ garbage cans full of household items such as clothes, shoes, decorations, and magazines are still present. Piles of plastic, cans, and glass are still at the site (photos 3-5).

### **Regulated Status**

This site is regulated as an open dump.

### **Apparent violations observed during this inspection:**

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

- #1 Pursuant to Section 21(a) of the Act, no person shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **evidence of open dumping of waste was observed during the inspection.**

- #2 Pursuant to Section 21(d)(1) of the Act, no person shall conduct and waste-storage, waste-treatment, or waste-disposal operation without a permit

A violation of Section 21(d)(1) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation without a permit was observed during the inspection.**

- #3 Pursuant to Section 21(d)(2) of the Act, no person shall conduct and waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Pollution Control Board.

A violation of Section 21(d)(2) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation in violation of regulations adopted by the Board was observed during the inspection.**

- #4 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was disposed, stored, or abandoned at this site which does not meet the requirements of the Act and of regulations and standards thereunder.**

- #5 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner which results in litter.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

35 Illinois Administrative Code. (Title 35: Environmental Protection, Subtitle G: Land Pollution, Chapter I: Pollution Control Board) [Regulations]

- #6 Pursuant to Section 812.101(a) of the Regulations, All persons, except those specifically exempted by Section 21(d) of the Act, shall submit to the Agency an application for a permit to develop and operate a landfill.

A violation of Section 812.101(a) is alleged for the following reason: **this waste management site has not submitted an application to the Agency for a permit to develop and operate a landfill.**

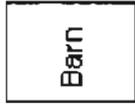
Illinois 116

To Pontiac →

LPC#1058235002--Livingston County  
Graymont/Oelschlaeger  
July 27, 2010  
Site Sketch  
Not to Scale  
Numbers denote photo location/direction



Grain Bin



1  
NORTH

3 ↘

5  
4 →



Illinois Environmental Protection Agency  
Bureau of Land

## ***DIGITAL PHOTOGRAPHS***

LPC #1058235002--Livingston County  
Graymont/Oelschlager  
FOS File

**DATE:** July 27, 2010  
**TIME:** 12:30-1:00 P.M.  
**DIRECTION:** West  
**PHOTO by:** Dustin Burger  
**PHOTO FILE NAME:**  
1058235002~07272010-001.jpg  
**COMMENTS:**



**DATE:** July 27, 2010  
**TIME:** 12:30-1:00 P.M.  
**DIRECTION:** Northwest  
**PHOTO by:** Dustin Burger  
**PHOTO FILE NAME:**  
1058235002~07272010-002.jpg  
**COMMENTS:**



Illinois Environmental  
Protection Agency  
Bureau of Land

## ***DIGITAL PHOTOGRAPHS***

**LPC #1058235002--Livingston County  
Graymont/Oelschlager  
FOS File**

**DATE: July 27, 2010  
TIME: 12:30-1:00 P.M.  
DIRECTION: North  
PHOTO by: Dustin Burger  
PHOTO FILE NAME:  
1058235002~07272010-003.jpg  
COMMENTS:**



**DATE: July 27, 2010  
TIME: 12:30-1:00 P.M.  
DIRECTION: East  
PHOTO by: Dustin Burger  
PHOTO FILE NAME:  
1058235002~07272010-004.jpg  
COMMENTS:**



**Illinois Environmental Protection  
Agency  
Bureau of Land**

# ***DIGITAL PHOTOGRAPHS***

**LPC #1058235002--Livingston County  
Graymont/Oelschlager  
FOS File**

**DATE: July 27, 2010  
TIME: 12:30-1:00 P.M.  
DIRECTION: North  
PHOTO by: Dustin Burger  
PHOTO FILE NAME:  
1058235002~07272010-005.jpg  
COMMENTS:**



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SEP 14 2010

PROOF OF SERVICE

STATE OF ILLINOIS  
Pollution Control Board

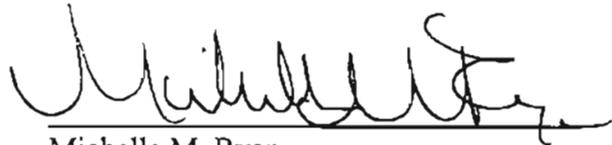
I hereby certify that I did on the 7th day of September 2010, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: August Oelschlager  
P.O. Box 105  
Graymont, IL 61743-2010

 ORIGINAL

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

To: John Therriault, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601



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