

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

County of DuPage,)
Complainant,)
v.) AC 08-14
Nicolas Cruz,) DP-AC-08-02
Respondent.)

RECEIVED
CLERK'S OFFICE
FEB 08 2008
STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I, the undersigned, on oath state that I have served on the date of February 1, 2008, the attached APPEARANCE, NOTICE OF FILING, ADMINISTRATIVE CITATION, AFFIDAVIT and OPEN DUMP INSPECTION CHECKLIST by personal service:

Nicolas Cruz
127 W. Brown
West Chicago, IL 60185

[Handwritten signature of Alan Cruz]

Subscribed and sworn to before me this 4th day of February, 2008.

[Handwritten signature of Notary Public]
Notary Public

County of DuPage County
503 N. County Farm Road
Wheaton, IL 60187



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 29 2008

STATE OF ILLINOIS
Pollution Control Board

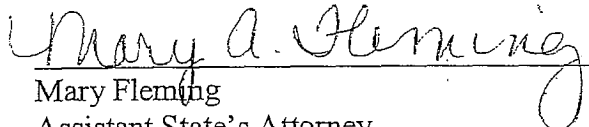
County of DuPage,)
)
 Complainant,)
)
 v.)
)
 Nicolas Cruz,)
)
 Respondent.)

AC 08-14
DP-AC-08-02

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of DuPage.

Respectfully submitted,


Mary Fleming
Assistant State's Attorney

DATED: January 29, 2008

County of DuPage
508 North County Farm Road
Wheaton, IL 60187

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

JAN 29 2008

STATE OF ILLINOIS
Pollution Control Board

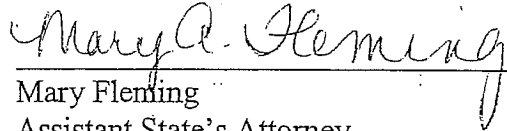
County of DuPage,)
)
Complainant,)
)
v.) AC 08- 14
)
Nicolas Cruz,)
)
Respondent.)

NOTICE OF FILING

TO: Nicolas Cruz
1N570 Mac Queen Drive
West Chicago, IL 60185

PLEASE TAKE NOTICE that on this date the ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST were hand delivered to the Clerk of the Pollution Control Board of the State of Illinois.

Respectfully submitted,



Mary Fleming
Assistant State's Attorney

DATED: January 11, 2008

County of DuPage
508 North County Farm Road
Wheaton, IL 60187
(630) 407-8200

RECEIVED
CLERK'S OFFICE

JAN 29 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

County of DuPage,)
)
 Complainant,)
)
 v.)
)
 Nicolas Cruz,)
)
 Respondent.)

AC 08 - 14
DP-08-02

ADMINISTRATIVE CITATION

Violation:
415 ILCS 5/21(p)(1)

Civil Penalty
\$1,500.00
TOTAL: \$1,500.00

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1996), specifically 415 ILCS 5/31.1.

FACTS

1. Complainant, County of DuPage, is a unit of local government to which the Illinois Environmental Protection Agency has delegated authority to issue administrative citations pursuant to Section 4(r) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/4(r) (2007). DuPage County is thus a "delegated unit" and may issue administrative citations under 35 Ill. Adm. Code 108.200.

2. The Respondent, Nicolas Cruz, is the present occupant and in control and possession of the property at 1N570 Mac Queen Drive; West Chicago, located in the County of DuPage, State of Illinois.

3. The property is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code #0438075019. The facility is known to the County as the Nicolas Cruz site.

4. The Respondent has occupied, controlled and/or operated the facility at all relevant times hereto.

5. On December 3, 2007, Joy Hinz, Field Inspector for DuPage County as delegated by the Illinois Environmental Protection Agency, inspected the property. A true and correct copy of the inspection report, along with Ms. Hinz's affidavit, are attached hereto and made a part hereof.

6. Based upon direct observations made by Ms. Hinz during the course of her inspection, DuPage County has determined that Respondent violated the Act as follows:

a. Respondent caused or allowed the open dumping of waste in a manner resulting in litter, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2007).

7. Based upon the foregoing facts, under Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), 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 civil penalty of One Thousand Five Hundred Dollars (\$1,500.00).

Notices and Instructions to Respondent

1. **You must pay the civil penalty set forth above unless you contest this Administrative Citation.** The following paragraphs contain payment instructions and more information about contesting this Administrative Citation.
2. To pay the civil penalty (and any other amounts due) send two (2) checks or money orders with the attached Remittance Form, one check in the amount of Seven Hundred and Fifty Dollars payable to DuPage County and the second check or money order in the amount of Seven Hundred and Fifty Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County
Department of Economic Development and Planning
Regulatory Services Division
421 North County Farm Road
Wheaton, IL 60187

To ensure that you receive timely and proper credit for your payment, complete the attached Remittance Form and include it with your payment.

3. You may contest this Administrative Citation by filing a Petition for Review, including a Notice of Filing, Certificate of Service, and Appearance with the Illinois Pollution Control Board ("Board").
4. **Any Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation on you. The Board will not review the Administrative Citation if the Petition for Review is not filed within this time.**
5. The Petition for Review must be filed with:

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

A copy of the Petition for Review must be served on the County of DuPage at the following address:

County of DuPage
Office of the State's Attorney, Civil Division
508 North County Farm Road
Wheaton, IL 60187

6. The contents of a Petition for Review and the procedures to be followed are governed by the Board's procedural rules. Copies may be obtained from the Clerk of the Board at the address above, by calling the Board at (312) 814-3620, or from the Board's website at:

<http://www.ipcb.state.il.us/rules/procedural/procedural.htm>

7. If you do not contest this Administrative Citation by filing a petition for review with the Board within the allotted time, the Board will enter an order finding that you committed the violations alleged above imposing the statutory civil penalty

set forth above. See Section 31.1(d) of the Act, 415 ILCS 5/31.1(d) and 35 Ill. Adm. Code 108.500(a).

8. If you contest this Administrative Citation by filing a timely petition for review with the Board, the Board will hold a hearing. The Board's procedural rules have more information on hearings; see 35 Ill. Adm. Code Parts 101 and 108.
9. If the Board finds after the hearing that you committed a violation as alleged above, you will be assessed the hearing costs incurred by the County of DuPage and the Board. Hearing costs are assessed in addition to the statutory civil penalty for the violations. If the Board finds after the hearing that you did not commit a violation as alleged above, or that the violation resulted from uncontrollable circumstances, you will not be assessed hearing costs and you will not have to pay a civil penalty.
10. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, interest on the amount due will be assessed against you from the date payment is due and including the date that payment is received.
11. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, the DuPage County State's Attorney's Office may initiate court proceedings against you to collect the amount due, plus any interest accrued. In that event, you may also be liable for court costs.

DATE January 29, 2008

County of DuPage
Office of the State's Attorney

Mary A. Fleming
Assistant State's Attorney

REMITTANCE FORM

| | |
|-------------------|------------|
| County of DuPage, |) |
| |) |
| Complainant, |) |
| |) |
| v. |) AC |
| |) DP-08-02 |
| Nicolas Cruz, |) |
| |) |
| Respondent. |) |

FACILITY: Nicolas Cruz Site

COUNTY: DuPage

DATE OF INSPECTION: December 3, 2007

SITE CODE: 0438075019

CIVIL PENALTY: \$1,500.00

Date Remitted _____

SS/FEIN # _____

Signature _____

Instructions

Enter the date of your remittance, your Federal Employee Identification Number (FEIN) (or social security number (SSN) if an individual) and sign this Remittance Form. Print the name of the person signing this Remittance Form and that person's title, if applicable.

Send two (2) checks or money orders with the attached Remittance Form, one check in the amount of Seven Hundred and Fifty Dollars payable to DuPage County and the second check or money order in the amount of Seven Hundred and Fifty Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County
 Department of Economic Development and Planning
 Regulatory Services Division
 421 North County Farm Road
 Wheaton, IL 60187

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

County of DuPage,)
Complainant,)
v.) AC 08-
Nicolas Cruz,) DP-08-02
Respondent.)

AFFIDAVIT

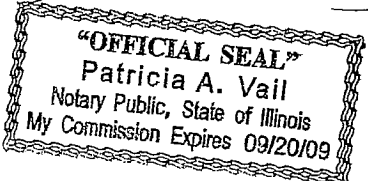
Affiant, Joy Hinz, being duly sworn, voluntarily deposes and states as follows:

- 1. At all times relevant to the above-captioned Administrative Citation, Affiant was employed as an inspector by the County of DuPage, Department of Economic Development and Planning.
2. On December 3, 2007 between 10:15 a.m. and 10:19 a.m., respectively, Affiant conducted an inspection of the property located at 1N570 Mac Queen Drive; West Chicago, Illinois.
3. Affiant conducted an onsite inspection, which included walking around the property and photographing the site.
4. In connection with this inspection, Affiant completed the Inspection Report appended to and made part of the above-captioned Administrative Citation, which is an accurate record of Affiant's observations and factual conclusions with respect to the site. This December 3, 2007 inspection report references Affiant's September 17, 2007 inspection which is also an accurate record of Affiant's observations and factual conclusions with respect to the site on September 17, 2007.

Joy Hinz (handwritten signature)

Subscribed and sworn before me
This 28th day of January, 2008

(handwritten signature of Patricia A. Vail)



State of Illinois
Environmental Protection Agency
Narrative Inspection Report Document

County: DuPage County
Inspector: Joy Hinz
Location: Nicolas Cruz Property

Date: September 17, 2007
Site No: 0438075019
Time: 2:30 – 2:36 p.m.

Weather Conditions: 64 degrees Fahrenheit. Mostly cloudy. Winds south at 13 mph.
Conditions obtained from The Weather Channel electronic mail

Estimated Amount of Waste: 4 cubic yards

General Remarks

I conducted this inspection in response to a complaint that waste was being open burned at the site. After arriving, I walked to the house where I attempted to locate an owner. A woman answered and explained that she was the owner of the house. I explained that I was on site to investigate an open burning complaint. She agreed to accompany me on this inspection.

We walked behind the house to the burn pile. The pile was about five feet in diameter and contained about 2 feet in height of ashes. The burned materials included glass bottles, aluminum cans, construction wood, a door handle and other miscellaneous waste.

I explained to the owner that they needed to immediately cease from open burning waste. I further informed her that the ashes and all the waste debris had to be removed and properly disposed.

I then exited the site.

Photograph 1

Photographed by: J. Hinz

Date: Sept. 17, 2007

Location: Cruz Property
1N570 MacQueen Dr.
West Chicago, IL

Site No: 0438075019

Time: 2:33 p.m.

Comments: Taken facing
southwestward showing the ashes
and contents in the burn pile.



Photograph 2

Photographed by: J. Hinz

Date: Sept. 17, 2007

Location: Cruz Property
1N570 MacQueen Dr.
West Chicago, IL

Site No: 0438075019

Time: 2:33 p.m.

Comments: Taken facing
southward showing the door knob,
metal cans and other misc. debris
in the burn pile.



State of Illinois
Environmental Protection Agency
Narrative Inspection Report Document

County: DuPage County
Inspector: Joy Hinz
Location: Nicolas Cruz Property

Date: December 3, 2007
Site No: 0438075019
Time: 10:15 – 10:19 a.m.

Weather Conditions: 21 degrees Fahrenheit. Sunny. Winds west northwest at 16 mph.
Humidity 62%. Conditions obtained from The Weather Channel electronic mail

Estimated Amount of Waste: 1 cubic yards

General Remarks

Pre-Inspection Notes: An Administrative Citation Warning Notice was issued as a result of an inspection completed on September 17, 2007. The certified copy of the Notice was returned on November 5th however the uncertified copy was not returned.

I conducted this inspection to determine if the site had been cleaned. No one was present at the home. I proceeded behind the house to the area where the burn pile had been. The ashes and remnants of debris from my previous inspection had been removed however there was a small pile of painted wood on the open burn pile.

I then exited the site.

State of Illinois
Environmental Protection Agency
Site Sketch

County: DuPage County
Inspector: Joy Hinz
Location: Nicolas Cruz Property

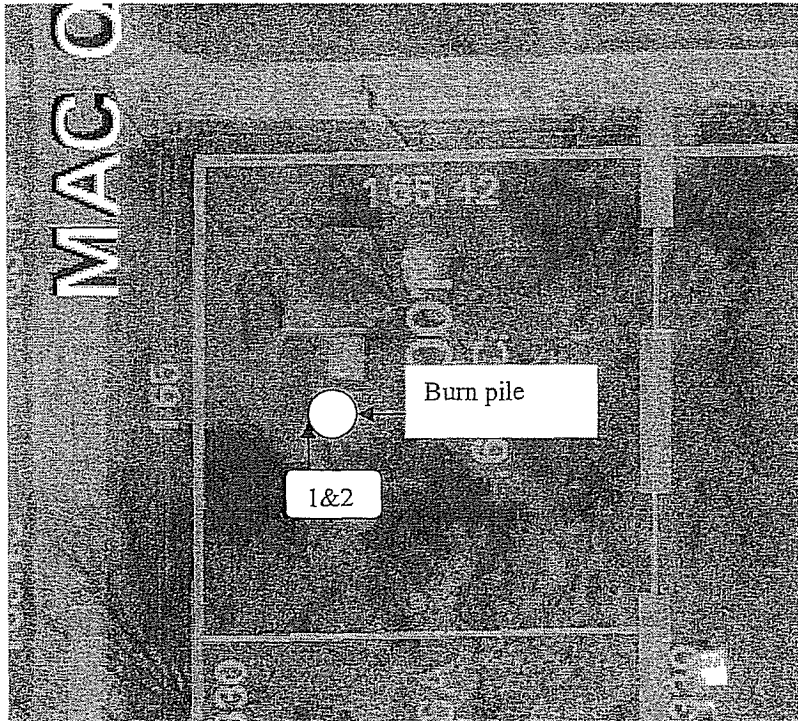
Date: December 3, 2007
Site No: 0438075019
Time: 10:15 – 10:19 a.m.

Not drawn to scale

North ↑



Indicates number and approximate direction of photograph



Photograph 1

Photographed by: J. Hinz

Date: December 3, 2007

Location: Cruz Property
1N570 MacQueen Dr.
West Chicago, IL

Site No: 0438075019

Time: 10:18 a.m.

Comments: Taken facing
westward showing the burn pile
behind the house.



Photograph 2

Photographed by: J. Hinz

Date: December 3, 2007

Location: Cruz Property
1N570 MacQueen Dr.
West Chicago, IL

Site No: 0438075019

Time: 10:18 a.m.

Comments: Taken facing
westward showing the painted
wood in the burn pile.



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-------------------|---|-------------|
| County of DuPage, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 08-14 |
| |) | DP-AC-08-02 |
| Nicolas Cruz, |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: Nicolas Cruz, 127 W. Brown, West Chicago, IL 60185

PLEASE TAKE NOTICE that on the 6th day of February, 2008, the attached Proof of Service was forwarded by U.S. Mail for filing to the Clerk of the Illinois Pollution Control Board, Chicago, Illinois.

JOSEPH E. BIRKETT
DuPage County State's Attorney
Attorney No. 50000
503 N. County Farm Rd.
Wheaton, IL 60187
630-407-8200

Mary A. Fleming

 MARY A. FLEMING
 Assistant State's Attorney

CERTIFICATE OF SERVICE

The undersigned being first duly sworn upon oath state that I served this notice by mailing a copy on February 6, 2008 to each person to whom it is directed and depositing the same in the U.S. Mail at Wheaton, Illinois with the proper postage prepaid.

Subscribed and sworn to before me
on February 6, 2008.

[Signature]

Elizabeth Vargas

 Notary

