



OFFICE OF THE STATE'S ATTORNEY  
DuPAGE COUNTY, ILLINOIS

JOSEPH E. BIRKETT  
STATE'S ATTORNEY

January 29, 2008

Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

Re: Administrative Citation – Nicolas Cruz  
AC# \*\*\*\*\*  
Site Code 0438075019  
Inspection Date: December 3, 2007

503 N. COUNTY FARM ROAD  
WHEATON, ILLINOIS 60187  
(630) 407-8000  
(630) 407-8003 (TDD)  
(630) 407-8171 FAX (CRIMINAL)  
(630) 407-8201 FAX (CIVIL)  
(630) 407-8006 FAX (CHILD SUPPORT/  
COMPLAINTS)

AC08-14

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Nicolas Cruz.

The Respondent's mailing address is 1N570 Mac Queen Drive; West Chicago, IL, 60185. I will send you the date, and proof of such, of service of the Citation on the Respondent. The site is known as the Nicolas Cruz site.

Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,

Mary Fleming  
Assistant State's Attorney

enclosures

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

JAN 29 2008

STATE OF ILLINOIS  
Pollution Control Board

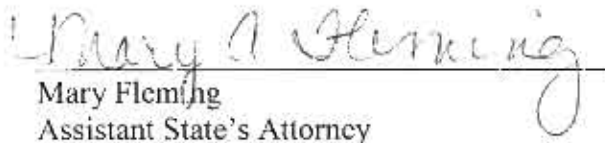
County of DuPage, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 Nicolas Cruz, )  
 )  
 Respondent. )

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

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

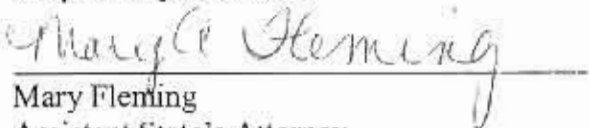
RECEIVED  
CLERK'S OFFICE  
JAN 29 2008  
STATE OF ILLINOIS  
Pollution Control Board

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

ORIGINAL

RECEIVED  
CLERK'S OFFICE  
JAN 29 2008  
STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**ADMINISTRATIVE CITATION**

<u>Violation:</u>	<u>Civil Penalty</u>
415 ILCS 5/21(p)(1)	\$1,500.00
	<b>TOTAL: \$1,500.00</b>

**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 17, 2008

County of DuPage  
Office of the State's Attorney

Mary A Fleming  
Assistant State's Attorney

ORIGINAL RECEIVED  
CLERK'S OFFICE  
JAN 29 2008  
STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

County of DuPage, )  
 )  
 Complainant, )  
 )  
 v. ) AC -14  
 ) 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



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STATE OF ILLINOIS  
Pollution Control Board

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

AC 08-14  
DP-08-02

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

Subscribed and sworn before me  
This 26<sup>th</sup> day of January, 2008

*Patricia A. Vail*

"OFFICIAL SEAL"  
Patricia A. Vail  
Notary Public, State of Illinois  
My Commission Expires 09/20/10

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.

State of Illinois  
Environmental Protection Agency  
Site Sketch

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

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

Not drawn to scale North ↑

 Indicates number and approximate direction of photograph



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 5<sup>th</sup> 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.

