

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION**

COUNTY OF VERMILION, ILLINOIS,

Complainant,

vs.

Marian and Russell Herbold,

Respondent

Case No.: AC:

**JURISDICTION**

The Administrative Citation is issued pursuant to the statutory authority vested in the Illinois Environmental Protection Agency by section 4(e) and 31.1 of the Illinois Environmental Protection Act ("act") 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County Pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

**FACTS**

1. That Respondents, Marian and Russell Herbold, are, and were at all times relevant to this Administrative Citation, the owner of property located at the area of 614 Poland Road, Danville, more particularly Latitude 40.1850, Longitude -87.6155.
2. That said property is vacant land which is not permitted as a sanitary landfill or dump area.
3. That on 8/05/2013 Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of his inspection report are attached hereto and incorporated herein by reference.

**VIOLATIONS**

1. On the basis of direct observations personally made by Douglas Toole, the County of Vermilion has determined that on 8/05/13 :
  - A. The Respondent was allowing the open dumping of waste which resulted in litter in violation of Section 21(p)(1).

1 B. The Respondent caused or allowed the open dumping of any waste  
2 which results in the deposition of general construction or demolition  
3 debris and clean construction and demolition debris in violation of  
4 Section 21(p)(7).

5  
6 **CIVIL PENALTY**

7 Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4), Respondent herein  
8 is subject to a civil penalty of \$1,500.00 for each violation of each provision  
9 under subsection p of Section 21, plus any hearing costs incurred by the Board  
10 should the Respondent elect to petition the Illinois Pollution Control Board  
11 under the review process described herein below.

12  
13 **PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION**

14 You have the right to contest this Administrative Citation under Section 31.1(d)  
15 of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative  
16 Citation, you must file a petition for Review with the Clerk of the Illinois  
17 Pollution Control, at the State of Illinois Center, 100 West Randolph Street,  
18 Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed  
19 with thirty-five (35) days of the date of service of this Administrative Citation, or  
20 a default judgment will be issued by the Illinois Pollution Control Board. A copy  
21 of the Petition for Review should be filed with the Vermilion County State's  
22 Attorney's Office, Courthouse, 2<sup>nd</sup> Floor, 7 N Vermilion Street, Danville, Illinois,  
23 61832.


24 If you acknowledge the violation herein, the civil penalty specified above shall  
25 be due and payable no later than 2-8-2010. If you do not petition the Illinois  
26 Pollution Control Board for review of the Administrative Citation within thirty-  
27 five (35) days of the service hereof and have not paid the civil penalty by the  
28 due date stated above, or if you elect to contest this Administrative Citation,  
29 any judgment rendered shall specify the due date of the statutory civil penalty  
30 and any costs assessed against you.

31 When payment is made, your check should be made payable to the County of  
32 Vermilion, Illinois and mailed to the Vermilion County Health Department, 200

1 South College Street, Danville, Illinois, 61832, together with a completed copy  
2 of the remittance form attached hereto.

3  
4 If any civil penalty, by reason of acknowledgment, default or finding after  
5 hearing, is not paid when due, the Vermilion County State's Attorney may  
6 initiate proceedings in the Circuit Court to collect said civil penalty. In addition  
7 to the previously assessed civil penalty and any hearing costs of the Illinois  
8 Pollution Control Board, the State's Attorney's Office will seek to recover its  
9 costs of litigation

10 Dated this September 4, 2013

11  
12 By:   
13 William T. Donahue  
14 Assistant State's Attorney  
15 Vermilion County, Illinois  
16 Courthouse Annex 3<sup>rd</sup> floor  
17 6 N. Vermilion Street  
18 Danville, IL. 61832

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

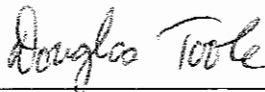
AFFIDAVIT

IN THE MATTER OF	)	No. _____
Marian and Russell Herbold	)	County File
	)	
Respondent.	)	

The Affiant, Douglas Toole, being first duly sworn, voluntarily deposes and states as follows upon personal knowledge:

1. Affiant is a field inspector employed by the Vermilion County Health Department and has been so employed at all times pertinent hereto.
2. On August 5, 2013 between 10:25 AM and 10:35 AM, your Affiant conducted an inspection of land within the County of Vermilion, State of Illinois, known as property of Marian and Russell Herbold, Latitude 40.31850 Longitude - 87.6155
3. Affiant inspected the land by an on-site inspection which included walking on the site and personally viewing the violations and measuring the amount of waste as set out in the inspection checklist as attached.
4. As a result of the activities referred to in paragraphs 2, 3 and above, Affiant completed the Solid Waste Landfill Inspection Checklist, with the enclosed Inspection Report Narrative, Site Sketch and photographs, 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 land of Marian and Russell Herbold on 8/05/13.

FURTHER Affiant sayeth not.



\_\_\_\_\_  
Douglas Toole

SIGNED and SWORN to before me this 5<sup>th</sup> day of September, 2013  
by Douglas Toole.

*Nancy Brumfield*

NOTARY PUBLIC





LPC # 1838045047

Inspection Date: 08/05/2013

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input checked="" 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"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

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.



PUBLIC HEALTH IS PRICELESS

## VERMILION COUNTY HEALTH DEPARTMENT

SHIRLEY HICKS, BS, SPHR, CPHA  
PUBLIC HEALTH ADMINISTRATOR

HEALTH AND EDUCATION BUILDING  
200 SOUTH COLLEGE, SUITE A  
DANVILLE, IL 61832  
PHONE/TDD 217 431-2662  
FAX 217 431-7483  
www.vchd.org

LPC #1838045047  
Danville / Herbold  
FOS  
08/05/2013

### OPEN DUMP INSPECTION NARRATIVE

This unpermitted open dump was reinspected on August 5, 2013, by Douglas Toole of the Vermilion County Health Department. The weather was cloudy, dry, breezy and about 75 degrees Fahrenheit. Five photos were taken of the site.

The site is located in Vermilion County, at 614 Poland Road in rural Danville, Illinois.

### INSPECTORS FINDINGS

I arrived at 614 Poland Road in rural Danville, Illinois at about 10:25 a.m. on August 5, 2013 to check the status of the cleanup on the property. No one one appeared to be home when I arrived, and no one accompanied me during the reinspection.

Near a storage building behind the house at 614 Poland Road, I observed plastic buckets, tires, scrap metal and other items (photos 1-3).

On the west side of the property behind the buildings, I observed tires, remodeling waste, concrete and other refuse (photo 4).

I then went to the south-central part of the property, where I observed a pile of branches, boards, household garbage, scrap metal, demolition debris and other refuse (photo 5).

Many of the items I observed on August 5, 2103 appeared to be items I had observed during my previous inspections of the property. There was no evidence of recent waste-burning at the site. I left the property at about 10:35 a.m.





LPC #1838045047  
Danville / Herbold  
08/05/13  
Page 2 of 3

On the Inspection Report Checklist for this reinspection, I estimated that there were 80 cubic yards of waste on the site. No measurements were performed to arrive at that estimation, only my observations at the time. The actual amount of waste on the site may vary significantly from that estimation.

### SUMMARY OF APPARENT VIOLATIONS

#### ILLINOIS ENVIRONMENTAL PROTECTION ACT (415 ILCS 5/1 et seq.)

Section 21 (a) of the Act: No person shall ... cause or allow the open dumping of any waste. The open dumping of waste was observed on the site.

Section 21 (d)(1) of the Act: No person shall ... conduct any waste storage, waste-treatment, or waste-disposal operation without ... a permit granted by the Agency. No Agency permit to conduct a waste storage, waste-treatment, or waste-disposal operation for the site was issued.

Section 21 (d)(2) of the Act: No person shall ... conduct any waste-storage, waste-treatment, or waste disposal operation ... in violation of any regulations or standards adopted by the Board under the Act. Violations of the Illinois Pollution Control Board Regulations were observed at the site where waste storage, waste-treatment, or waste-disposal operations were taking place.

Section 21(e) of the Act: No person shall ... dispose, treat, store or abandon any waste ... except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder. The storage and disposal of waste was occurring at a site which did not meet the requirements of the Illinois Environmental Protection Act and the Illinois Pollution Control Board Regulations.

Section 21 (p)(1) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... litter. Open dumping of waste resulting in litter was observed at the site.

LPC #1838045047

Danville / Herbold

08/05/13

Page 3 of 3

Section 21 (p)(7) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... the deposition of general construction or demolition debris; or clean construction or demolition debris. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site.

Section 55 (a) of the Act: No person shall ... cause or allow the open dumping of any used or waste tire. Open dumping of used and waste tires was observed at the site.

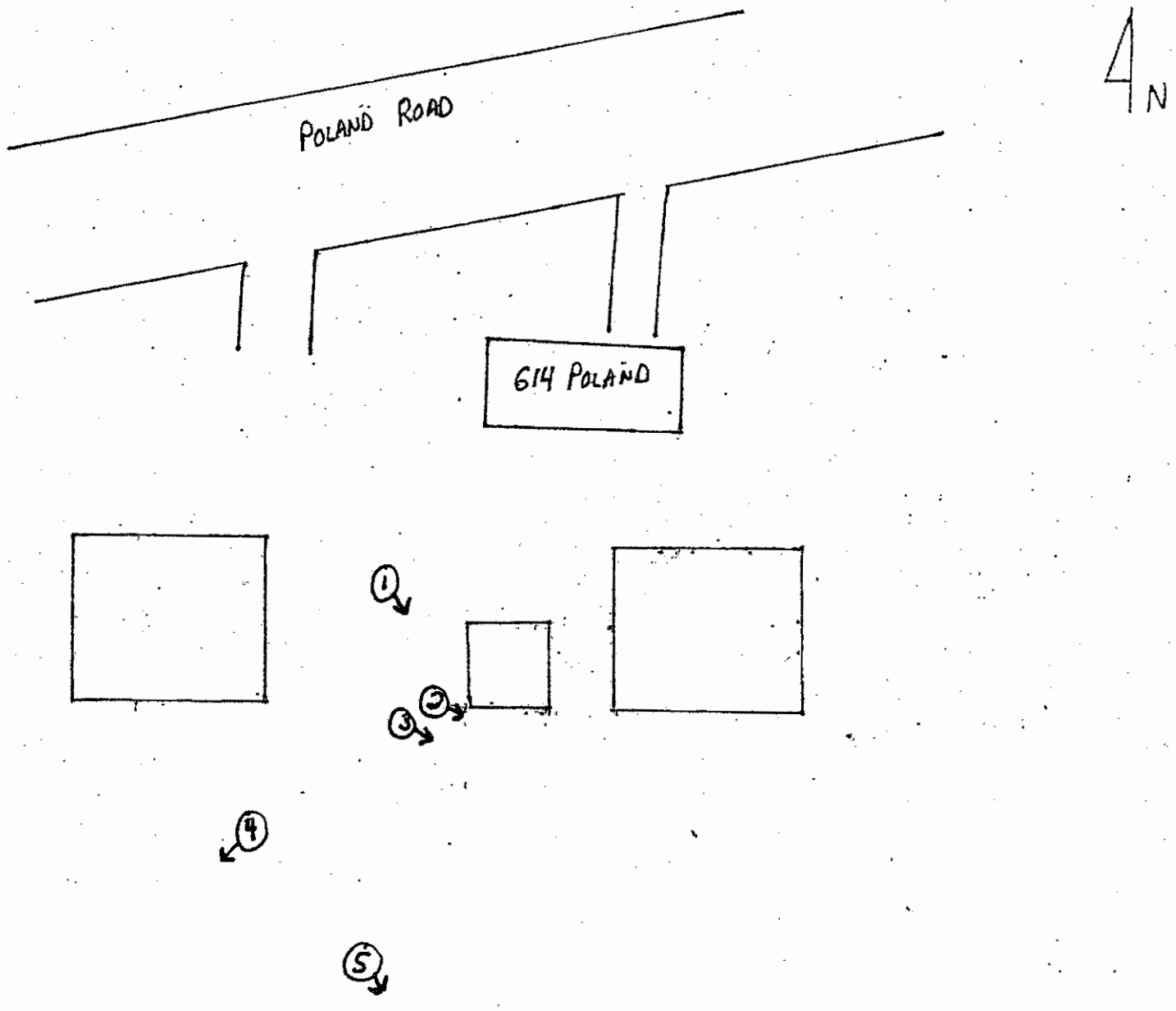
ILLINOIS POLLUTION CONTROL BOARD; 35 ILLINOIS ADMINISTRATIVE CODE,  
SUBTITLE G  
(REGULATIONS)

Section 812.101 of the Regulations: ... All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) [415 ILCS 5/21(d)], shall submit to the Agency an application for a permit to develop and operate a landfill. The application must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817. No such application for a permit to develop and operate a landfill was submitted.

STATE OF ILLINOIS  
ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Date of Inspection: AUGUST 5, 2013 Inspector: DOUGLAS TOOLE  
Site Code: 1838045047 County: VERMILION  
Site Name: DANVILLE / HERBOLD Time: 10:25-10:35 A.M.





## DIGITAL PHOTOGRAPHS

File Name: Danville / Herbold



Date: 08/05/2013  
Time: 10:30 a.m.  
Direction: SE  
Photo by: Doug Toole  
Exposure #: 01  
Comments:

North part of site



Date: 08/05/2013  
Time: 10:30 a.m.  
Direction: SE  
Photo by: Doug Toole  
Exposure #: 02  
Comments:

Same area  
from photo #1



## DIGITAL PHOTOGRAPHS

File Name: Danville / Herbold



Date: 08/05/2013  
Time: 10:31 a.m.  
Direction: SE  
Photo by: Doug Toole  
Exposure #: 03  
Comments:

North part of site



Date: 08/05/2013  
Time: 10:32 a.m.  
Direction: SW  
Photo by: Doug Toole  
Exposure #: 04  
Comments:

West part of site



## ***DIGITAL PHOTOGRAPHS***

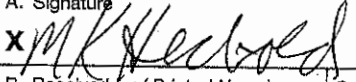
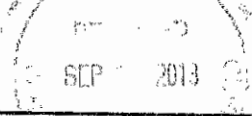
File Name: Danville / Herbold

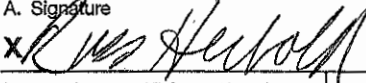
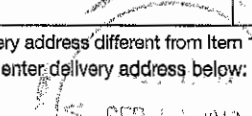


**Date:** 08/05/2013  
**Time:** 10:33 a.m.  
**Direction:** SE  
**Photo by:** Doug Toole  
**Exposure #:** 05  
**Comments:**

**South part of site**

**Date:**  
**Time:**  
**Direction:**  
**Photo by:**  
**Exposure #:**  
**Comments:**

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature   <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
	B. Received by (Printed Name)	C. Date of Delivery
1. Article Addressed to:	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes                  If YES, enter delivery address below: <input type="checkbox"/> No</p> 	
Marian Herbold 614 Poland Road Danville, IL 61834	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)	7007 2680 0002 1787 0645	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature   <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
	B. Received by (Printed Name)	C. Date of Delivery
1. Article Addressed to:	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes                  If YES, enter delivery address below: <input type="checkbox"/> No</p> 	
Russell Herbold 614 Poland Road Danville, IL 61834	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)	7007 2680 0002 1787 2250	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		