

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

NOV 19 2015

STATE OF ILLINOIS  
Pollution Control Board

County of DuPage, )  
)  
Complainant, )  
)  
v. )  
)  
Thomas Schmerold. )  
)  
Respondent. )

AC 16-6  
DP-AC-15-

APPEARANCE

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

Respectfully submitted,



\_\_\_\_\_  
Lisa A. Smith  
Assistant State's Attorney

DATED: November 17, 2015  
County of DuPage  
503 North County Farm Road  
Wheaton, IL 60187  
630-407-8200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

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STATE OF ILLINOIS  
Pollution Control Board

County of DuPage, )  
 )  
Complainant, )  
 )  
v. ) AC 16-6  
 )  
Thomas Schmerold )  
 )  
Respondent. )

NOTICE OF FILING

TO: Thomas Schmerold  
26W080 Roosevelt Road  
Wheaton, IL 60187

PLEASE TAKE NOTICE that on November 17, 2015 I mailed for filing 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,

*Lisa A. Smith*

\_\_\_\_\_  
Lisa A. Smith  
Assistant State's Attorney

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

County of DuPage, )
Complainant, )
v. ) AC 16-6
Thomas Schmerold ) DP-15-01
Respondent. )

RECEIVED
CLERK
NOV 19 2015
STATE OF IL
Pollution Control

ADMINISTRATIVE CITATION

Table with 2 columns: Violation and Civil Penalty. Rows include 415 ILCS 5/21(p)(1) for \$1,500.00, 415 ILCS 5/21(p)(7)(i) for \$1,500.00, and a TOTAL of \$3,000.00.

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, Thomas Schmerold, is the present owner and is in control of the property at 26W080 Roosevelt Road, Wheaton, 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 #0438045020. The facility is known to the County as the Schmerold site.

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

5. On October 15, 2015, Andi Dierich, 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. Dierich's affidavit, are attached hereto and made a part hereof.

6. Based upon direct observations made by Ms. Dierich 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);
- b. Respondent caused or allowed the open dumping of waste in a manner resulting the open burning of waste, in violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3).

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 Three Thousand Dollars (\$3,000.00).



**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 One Thousand Five Hundred Dollars payable to DuPage County and the second check or money order in the amount of One Thousand Five Hundred Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County  
Office of the State's Attorney, Civil Division  
Attn. Lisa Smith  
503 N. County Farm Rd.  
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  
503 North County Farm Road  
Wheaton, IL 60187

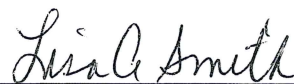
6. The contents of a Petition for Review and the procedures to be followed are governed by the Board's procedural rules. Copies may be obtained from the Clerk of the Board at the address above, by calling the Board at (312) 814-3620, or from the Board's website at:

<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 Office of the Illinois Attorney General and/or the City of Chicago Department of Law 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: November 17, 2015

County of DuPage  
Office of the State's Attorney



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Lisa A. Smith  
Assistant State's Attorney


**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

County of DuPage, )  
 )  
 Complainant, )  
 )  
 v. ) AC 15-6-6  
 ) DP-15-01  
 Thomas Schmerold )  
 )  
 Respondent. )


**AFFIDAVIT**

Affiant, Andi Dierich, 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 Building and Zoning.
2. On October 15, 2015 between 9:00 a.m. and 9:20 a.m., respectively, Affiant conducted an inspection of the property located at 26W080 Roosevelt Road, Wheaton, 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 October 15, 2015 inspection report references observations and factual conclusions with respect to the site inspection.

  
\_\_\_\_\_  
Andi Dierich

Subscribed and sworn before me  
This 16 day of November, 2015

  
\_\_\_\_\_  
Notary Public



REMITTANCE FORM

County of DuPage,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 16-6
	)	DP-15-01
Thomas Schmerold	)	
	)	
Respondent.	)	

FACILITY:                  Schmerold Site

COUNTY:                   DuPage

DATE OF INSPECTION:    October 15, 2015

SITE CODE:               0438045020

CIVIL PENALTY:          \$3,000.00

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

REMITTANCE FORM

County of DuPage, )  
 )  
 Complainant, )  
 )  
 v. ) AC 16-6  
 ) DP-15-01  
 Thomas Schmerold )  
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 Respondent. )

FACILITY: Schmerold Site

COUNTY: DuPage

DATE OF INSPECTION: October 15, 2015

SITE CODE: 0438045020

CIVIL PENALTY: \$3,000.00

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 Forms, one check in the amount of One Thousand Five Hundred Dollars payable to DuPage County and the second check or money order in the amount of One Thousand Five Hundred Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County  
Office of the State's Attorney, Civil Division  
Attn. Lisa Smith  
503 N. County Farm Rd.  
Wheaton, IL 60187



State of Illinois  
Environmental Protection Agency  
Narrative Inspection Report Document

County: DuPage County  
Inspector: A. Dierich  
Location: 26w080 Roosevelt Rd.

Date: October 15, 2015  
Site No: 0438045020  
Time: 9:00 – 9:20 a.m.

Weather Conditions: 82 degrees Fahrenheit. Clear with winds 13.8 mph NW. Conditions obtained from Weather Underground Website.

**Estimated Amount of Waste: 5 cubic yards**

*Pre-Inspection Notes: On July 31, 2015 Joy Hinz and I inspected this property in response to a complaint. At the time there was evidence of open burning and dumping on site. An Administrative Citation Warning Notice was issued on August 3.*

General Remarks

I conducted this inspection as a follow-up to the Administrative Citation Warning Notice issued on August 3, 2015. Deb Houdek, DuPage County Code Enforcement Officer, accompanied me on this inspection. After arriving, we walked to the house and proceeded to knock to announce our inspection. After waiting a few minutes with no response we walked to the north portion of the property.

A brick fire pit was situated directly behind the house on a patio located on the east side of the house. The pit contained the remains of and partially burned metal, metal cans, paper products, furniture and other miscellaneous municipal solid waste (Photo 1 and Photo 2). The pile was approximately 3.5 feet in diameter. North of the brick fire pit was a large 6-8 ft. circular patch of a burn pile. This larger burn pile contained partially burned paper, metal and other miscellaneous items.

Directly north and adjacent to the back of the house was a bin of municipal waste some bagged and some placed directly onto the patio. Scattered waste was present throughout the property. After noting burn piles and scattered material, Ms. Houdek issued a Violation Notice for DuPage County Code items. She attached the notice to the door and we then exited the property.

At that time, the site appeared to be in violation of 415 ILCS 21(p)(1) and 415 ILCS 21(p)(3).  
{End}




State of Illinois  
Environmental Protection Agency  
Site Sketch

County: DuPage County  
Inspector: A. Dierich  
Location: 26w080 Roosevelt Rd.

Date: October 15, 2015  
Site No: 0438045020  
Time: 9:00 – 9:20 a.m.

Not drawn to scale

North ↑

 Indicates number and approximate direction of photograph





Photograph 1

Photographed by: A. Dierich

Date: July 31, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020

Time: 9:22 a.m.

Comments: Taken facing west.  
Partially burned waste (furniture,  
cans, paper) present.



Photograph 2

Photographed by: A. Dierich

Date: July 31, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020

Time: 9:22 a.m.

Comments: Taken facing west.  
A close-up of partially burned  
waste (furniture, cans, paper)  
present.





Photograph 3

Photographed by: D. Houdek

Date: Oct. 15, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020

Time: 9:22 a.m.

Comments: Taken facing south.  
Municipal solid waste in a  
manner constituting litter.



Photograph 4

Photographed by: A. Dierich

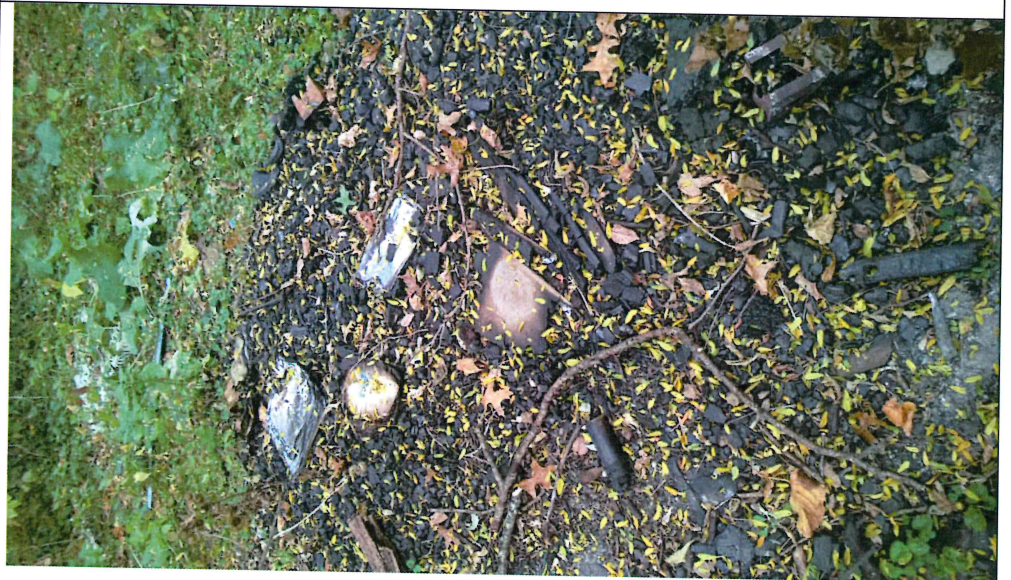
Date: July 31, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020

Time: 9:20 a.m.

Comments: Taken facing  
northwest. Second larger  
unmarked burn pile. Cinder  
height roughly 2-3", partially  
burned waste (bottles, metal  
pieces, paper) present.





Photograph 5

Photographed by: A. Dierich  
Date: July 31, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020  
Time: 9:22 a.m.

Comments: Taken facing  
northwest. A close-up of  
partially burned waste (cans,  
paper, and metal) present.





Photograph 6

Photographed by: A. Dierich

Date: July 31, 2015

Location: Schmerold Property  
26w080 Roosevelt Rd.

Site No: 0438045020

Time: 9:22 a.m.

Comments: Taken facing west.  
A close-up of another portion of  
the larger burn pile, partially  
burned waste (miscellaneous  
items) present.

