



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 Mary A. Gade, Director

(217) 785-0830
TDD (217) 782-9143

VIA HAND DELIVERY

August 21, 1998

Mr. John Prior, individually
and d/b/a Prior Oil Company
and/or Prior-Carlyle, Inc.
near the Industrial Park
Highway 51, South
Centralia, Illinois 62801-0821

Re: VIOLATION NOTICE E-1998-00002
Environmental Release Incident: #971314
Attributable to Mr. John Prior, individually
and d/b/a Prior Oil Company,
and/or Prior-Carlyle, Inc.
Date Release First Reported: July 21, 1997
Wamac, Marion County, Illinois

Dear Mr. Prior:

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act ("Act"), 514 ILCS 5/31(a)(1), and is based upon review of available information and investigation by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

Enclosed you will find a copy of the original Violation Notice dated January 16, 1998, which was returned by the Post Office unclaimed. The Post Office return notice indicates that you were twice given notice of the arrival of this Violation Notice, on January 17, 1998 and January 21, 1998. We also attempted to deliver the Violation Notice by hand through an Agency employee on April 17, 1998, but again without success.

The Illinois EPA hereby provides Notice of violations of environmental statutes, regulations or permits as set forth in Attachment 1 to this letter. Attachment 1 includes an explanation of the activities that Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period for completion of the necessary activities. However, due to the nature and seriousness of the violations cited in Attachment 1, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

**PEOPLE'S
EXHIBIT**

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A written response to this Violation Notice, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in Attachment 1 and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. The written response will constitute a proposed Compliance Commitment Agreement ("CCA") pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.

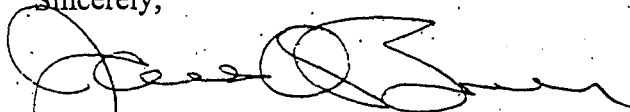
If a timely written response to this Violation Notice is not provided, it shall be considered a waiver of the opportunity to respond and to meet, and the Illinois EPA may proceed with a referral to a prosecutorial authority.

The Illinois EPA encourages the use of pollution prevention methods to help achieve compliance with environmental requirements. By switching to nonhazardous raw materials, improving housekeeping practices or changing production processes to generate less pollution or waste, you may be able to save money, increase efficiency and possibly reduce regulatory requirements.

Written communications should be directed to James P. O'Brien, Manager, Office of Chemical Safety/Emergency Response Unit, at Mail Code # 28, 1021 North Grand Avenue, P.O. Box 19276, Springfield, Illinois 62794-9276. All communications must include reference to this Violation Notice, E-1998-00002.

Questions regarding this matter should be directed to Theresa Roof, Compliance Specialist, Office of Chemical Safety at (217) 557-1913.

Sincerely,

A handwritten signature in black ink, appearing to read 'James P. O'Brien', with a large, stylized initial 'J'.

James Patrick O'Brien
Manager, Office of Chemical Safety

attachment

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Attachment 1

Environmental Release Incident: #971314

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Wamac, Marion County, Illinois

ATTACHMENT 1

I. Description of Violations

Mr. John Prior, ind., d/b/a Prior Oil Company, and/or Prior-Carlyle, Inc. (collectively "Prior") caused or allowed an estimated 31-48 barrels of crude oil to be released at and from a tank battery operated by Prior on property which is part of the City Park, in Wamac, Marion County, Illinois. The contaminants from incident 971314 breached the inadequate earthen fire wall surrounding the tank battery and entered Fulton Creek and Sewer Creek, eventually causing a sheen, which extended approximately three miles from the spill site. Although Prior alleged that lightning was the cause of the release, a representative of the Illinois Environmental Protection Agency ("Illinois EPA") never observed any tank damage consistent with a lightning strike. The Illinois EPA representative was present at the site on July 22, 1997, July 28, 1997 and September 11, 1997. At the time of the first visit, strong odors from the crude oil which had been released were observed by the Illinois EPA. Illinois EPA also observed neighborhood children playing in the crude oil in the creek, indicating the direct impact on the public this release had. During both the July 22, 1997 and July 28, 1997 visits, Illinois EPA also observed continued drainage of residual oil from the spill into Fulton Creek, and visibly impacted foliage. During the September 11, 1997 visit, Illinois EPA observed that two inches of standing oil were still present in the containment around the "gun barrel" tank that had the release. Illinois EPA was contacted by citizens and City of Wamac officials complaining about release #971314. Despite being advised by the Illinois EPA that he should actively seek to collect as much as possible of the spilled oil from the creeks, soil, vegetation, etc., Prior did nothing else to address off-site contamination besides implementation of straw bales and a few "booms" provided by Illinois EPA.

The release impacted air, soil, surface water and potentially groundwater. According to the information available to Illinois EPA, residual crude oil contamination remains in the soil, creek sediments and, potentially groundwater in the area around where the spill occurred, and constitutes an on-going source of releases and threats of releases to waters of the State (surface water and groundwater).

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Attachment 1

Releases of contaminants, including odors, to the air, constitute violations of Section 9(a) of the Act, which prohibits causing or allowing air pollution. The continuing release and threat of releases of crude oil and crude oil constituents contamination from the spill site to groundwater constitute violations of Section 12(a) and (d) of the Act, which prohibit causing or allowing the contamination of waters of the State. Releases that impacted the soil and land surface may constitute open dumping under Section 21(a) of the Act.

II. Text of Section 9(a), and 12(a) and (d), and 21(a) of the Illinois Environmental Protection Act

Section 9

No person shall:

- a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

Section 12

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources or so as to violate regulations or standards adopted by the Pollution Control Board under this act.
- d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

Section 21

No person shall:

- a. Cause or allow the open dumping of any waste.

III. Narrative Description of Activities Recommended by Illinois EPA for Resolution of Violations

The Illinois EPA's Office of Chemical Safety recommends that Prior include all activities described below as part of a proposed Compliance Commitment Agreement relative to the release cited herein. The Office of Chemical Safety believes that activities 1 and 2 described below (conduct of an investigation into cause of the release; conduct of a focused site investigation) can reasonably be completed by Prior with appropriate reports submitted to the Illinois EPA within forty-five (45) days of your receipt of this Violation Notice. The Illinois

Attachment 1

EPA requests that Prior provide an estimated schedule for completion of each activity recommended below. The Illinois EPA recognizes that the schedule for activities 3 through 5 will be dependent on the results of activities 1 and 2, and that adjustments to the time schedule proposed for activities 3 through 5 may be appropriate at a later date.

1. Conduct a thorough investigation by knowledgeable personnel into the cause or causes of the release and how such releases can be prevented or precluded in the future. This investigation may be conducted in accordance with the enclosed "Compliance Documentation Guide I - Criteria for Investigation of Causal Factors and Development of Preventive Responses ("Guide I"), which is provided for your convenience. Illinois EPA recommends that a comprehensive report of that investigation and recommended corrective actions be submitted to the Office of Chemical Safety of the Illinois EPA within forty-five (45) days of your receipt of this Violation Notice.
2. Conduct a focused site investigation at the emergency incident site with respect to the material released and any other material or conditions that affect the mobility and enhance the toxicity of the material released. The site investigation may address the criteria cited in the enclosed "Compliance Documentation Guide B - Criteria for focused Site Investigation and Remedial Action Plan at Emergency Incident Sites ("Guide B"), which is provided for your convenience. Illinois EPA recommends that an investigation report be prepared for the site in accordance with Guide B and be submitted to the Office of Chemical Safety within forty-five (45) days of your receipt of this Violation Notice.
3. Determine remediation objectives in accordance with Guide B and the documents and regulations cited therein. A remediation objectives report should be prepared in accordance with Guide B and submitted to the Office of Chemical Safety for review. Prior should indicate a proposed date for submission of this report.
4. Prepare a remedial action plan in accordance with Guide B to address contamination at locations where the contamination concentration exceeds the remediation objectives which have been approved by the Office of Chemical Safety for the incident location. The remedial action plan should be submitted to the Office of Chemical Safety for review in advance of implementation. Prior should indicate a proposed date for submission of this remedial action plan. The remedial action plan should also contain an implementation schedule. The Office of Chemical Safety may agree in writing to amendments to portions of the schedule as requested by, if conditions during implementation justify this. [Note: If remedial action is expected to exceed three months, the plan should include a schedule for detailed quarterly reports of progress. The content of such reports should be proposed in the remedial action plan.]

5. Prepare a remedial action completion report at the completion of the accepted remedial action plan. The remedial action completion report should be submitted to the Office of Chemical Safety by the date proposed in the accepted remedial action plan. The remedial action completion report may be prepared in accordance with "Compliance Documentation Guide C - Criteria for Remedial Action Report at Emergency Incident Sites ("Guide C"), which is provided for your convenience.

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bcc: James O'Brien
John Waligore
Cheryl Kelley - ERU-Collinsville