



# 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

November 12, 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, IL 62801-0821

Mr. John Prior, individually  
and d/b/a Prior Oil Company  
and/or Prior-Carlyle, Inc.  
421 N. Morrison  
Cental City, IL 62801

**Re: VIOLATION NOTICE E-1998-00071**  
**Incident #971159**  
**Attributable to Mr. John Prior, individually**  
**and d/b/a Prior Oil Company**  
**and/or Prior-Carlyle, Inc.**  
**and/or Mrs. Betty Prior, individually**  
**Date Incident Discovered: June 30, 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"), 415 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").

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.

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

**PEOPLE'S  
EXHIBIT**

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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 Mr. James P. O'Brien, Manager, Office of Chemical Safety, at 1021 North Grand Avenue East, P.O. Box 19276, Mail Code #28, Springfield, Illinois 62794-9276. All communications must include duplicate copies of any technical data and/or reports and give reference to Violation Notice E-1998-00071.

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

Sincerely,



James Patrick O'Brien  
Manager, Office of Chemical Safety

attachment

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**ATTACHMENT 1**

**Incident #971159**

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**ATTACHMENT 1**

**I. Description of Violations**

Mr. John Prior, individually and d/b/a Prior Oil Company and/or Prior-Carlyle, Inc. ("Prior"), and/or Mrs. Betty Prior, individually ("Mrs. Prior") are in apparent violation of the Illinois Environmental Protection Act because on or before June 30, 1997, they caused or allowed approximately 50 barrels of crude oil to be released from deteriorated above ground storage tanks located at Prior's facility on Rolston Street in Wamac, Marion County, Illinois. The crude oil from incident 971159 breached the inadequate containment berm surrounding the tank battery, traveled offsite, and entered Fulton Creek and Sewer Creek, which eventually empty into the Kaskaskia River. Soil and groundwater on and off the property were also impacted. The Illinois Environmental Protection Agency ("Illinois EPA") has never received information indicating that a thorough investigation as to the cause or causes of the release was conducted. On July 28, 1997, over a month after incident 971159 was reported, an inspector from Illinois EPA visited the site and still observed oil leaking from a tank valve. A Prior employee tried to tighten the valve, but the leak did not stop and, in fact, the type valve was not intended for use on that particular tank.

The release incident was initially reported by Prior as having been caused by James Mezzo Oil Company. Accordingly, Illinois EPA issued Mezzo a Violation Notice on December 12, 1997, relative to the release. On September 29, 1998, following Illinois EPA's rejection of Mezzo's proposed Compliance Commitment Agreement and the Agency's issuance of a Notice of Intent to Pursue Legal Action, Illinois EPA representatives met with Mezzo to discuss the release. On that day, Mezzo provided information which indicated that Prior had purchased the mineral rights and all equipment at the relevant tank battery from Mezzo before release 971159 occurred. Moreover, Prior responded to the spill and did not inform Mezzo of the occurrence of the release until several days later.

Further, on September 29, 1998, Mezzo indicated that he did not own the real property from which the release originated in June 1997; it was owned at that time by Mrs. Prior. Based upon this new information Illinois EPA is now issuing this Violation Notice to Prior and Mrs. Prior.

Attachment 1

According to information and belief of the Illinois EPA, residual contamination of soil and groundwater remains in area impacted by the release, and constitutes a continuing source of releases or threats of release of contaminants to waters of the state (including groundwater). Releases or the threat of releases of contaminants to surface water and/or groundwater constitute violations of Section 12(a) and (d) of the Act, which prohibits causing or allowing the release of contaminants to waters of the State. Releases which impacted soil and land surface may constitute open dumping under Section 21(a) of the Act.

**II. Text of Sections 12(a) and (d) and 21(a) of the Illinois Environmental Protection 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(a)**

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 and/or Mrs. 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 and/or Mrs. Prior with appropriate reports submitted to the Illinois EPA within 45 days of your receipt of this Violation Notice. The Illinois 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

Attachment 1

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 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 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 and/or Mrs. 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 and/or Mrs. 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 portion of the schedule as requested by, if conditions during implementation justify this. [Note: If the 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: Jim O'Brien**  
**John Waligore**  
**Tom Powell - ERU-Collinsville**  
**Roger Kanerva**  
**Steve Davis - IDNR**  
**Stan Yonkauski - IDNR**