



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SKINNER, DIRECTOR

217/782-5544
TDD 217/782-9143

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z 363 615 814 & Z 363 615 815

August 6, 1999

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

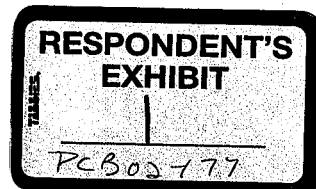
Mr. John Prior, individually
and d/b/a Prior Oil Company
421 N. Morrison
Central City, IL 62801

Re: Notice of Intent to Pursue Legal Action
Violation Notice E-1998-00071
Release Incident #971159
Attributable to Mr. John Prior, individually
and d/b/a Prior Oil Company
and/or Mrs. Betty Prior, individually
Date Release Discovered: June 30, 1997
Wamac, Marion County, Illinois

Dear Mr. Prior:

This Notice of Intent to Pursue Legal Action ("NIPLA") is provided pursuant to Section 31(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(b) (1994). The Illinois Environmental Protection Agency ("Illinois EPA") is providing this NIPLA because Mr. John Prior, individually and d/b/a Prior Oil Company ("Prior"), and/or Mrs. Betty Prior ("Mrs. Prior") has failed to respond adequately to violations cited in the Attachment of Violation Notice E-1998-00071, issued by the Illinois EPA on November 12, 1998; because Illinois EPA has determined that it may not be possible to satisfactorily resolve this matter without the involvement of the Office of the Illinois Attorney General, the Marion County State's Attorney, or USEPA, and the possible imposition of penalties; and because of the following listed legal/technical reasons:

1. The release significantly impacted waters of the State.
2. Neither John Prior nor Betty Prior undertook sufficient immediate response activities which could have minimized the extent of the release.



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Notice of Intent to Pursue Legal Action

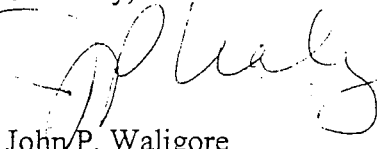
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Illinois EPA is providing this NIPLA because it may pursue formal legal action for violations of environmental laws and regulations, as specified in the Attachment to this letter. This NIPLA provides Mr. John Prior, individually and d/b/a Prior Oil Company and/or Mrs. Betty Prior with the opportunity to schedule a meeting with representatives of Illinois EPA to further discuss the violations specified in the Attachment to this letter. If a meeting is requested, it must be held within thirty (30) days of receipt of this notice, unless an extension of time is agreed to by Illinois EPA.

If you wish to schedule a meeting with representatives of Illinois EPA, please contact Irina Soutskover, Division of Legal Counsel at (217) 524-3334 within twenty (20) days of your receipt of this NIPLA.

Written communications should be directed to the 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 duplicate copies of any technical data and/or reports and give reference to this Violation Notice E-1998-00071.

Sincerely,



John P. Waligore
Assistant Counsel
Environmental Policy
and Chemical Safety
Division of Legal Counsel

attachment

cc: Steve Davis - IDNR
Stan Yonkausk - IDNR

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Violation Notice E-1998-00071

Attachment

Release Incident #971159

Attributable to Mr. John Prior, individually
and d/b/a Prior Oil Company

and/or Mrs. Betty Prior, individually

Date Release Discovered: June 30, 1997

Wamac, Marion County, Illinois

ATTACHMENT

Mr. John Prior, individually and d/b/a Prior Oil Company ("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 of 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 issued a Violation Notice to Prior and Mrs. Prior on November 12, 1998.

According to information and belief of the Illinois EPA, residual contamination of soil and groundwater remains in the 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).

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Violation Notice E-1998-00071

Attachment

Releases or the threat of releases of contaminants to surface water and/or groundwater constitute 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 Section 12(a) and (d) and 21(a) of the Illinois Environmental Protection Act.

Section 12

No person shall:

- c. 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.