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**CON: 12-15
Doc # 8764**

James L. Pray

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(515) 242-2404

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(515) 323-8504

Writer's E-Mail Address
pray@ialawyers.com

June 22, 2006

Mr. Daniel Cook
Environmental Specialist Senior
Contaminated Sites Section
Iowa Dept. of Nat. Res.
Wallace State Office Building
502 E. 9th St.
Des Moines, IA 50319

Re: Quick Oil Company, 1127 Herndon Road, Herndon, Iowa 50026

Dear Mr. Cook:

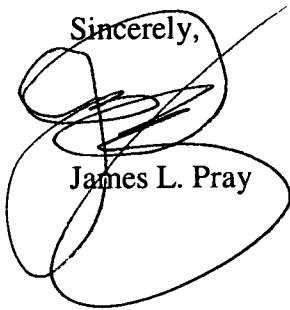
I am in receipt of your letter to Warren Vander Leest dated May 25, 2006 which was postmarked May 30, 2006. You asked that Sully Transport remove four monitoring wells. I am authorized by Sully Transport to decline the request on the basis that any involvement by Sully Transport in this matter has ended with the execution of a Stipulated Order of Dismissal by and between Sully Transport and the IDNR. I am enclosing for support the following:

- The November 26, 2003 Settlement stating that the Stipulated Order of Dismissal "does not affect, diminish, or restrict the right of the Department to continue that oversight and investigation or to impose any requirements allowed by Iowa law *except as it may apply to the Appellants*."; stating that "Appellants have concluded their obligation to remediate the Quick Oil Co. bulk oil site;" and stating that the IDNR and Sully have entered into a "full settlement of any and all claims by the Department;"
- The May 9, 2003 letter from you to Sully Transport stating that "no further action will be required."
- The May 9, 2003 letter from you to Vernon Van Gundy and Ron Gittins that the IDNR would be looking to those parties to conduct further environmental assessments.

As the chain of correspondence and documents indicate, the current owner took over assessment and cleanup responsibilities. The IDNR should look to that owner for site closure now that all assessment has been completed. I am sending a copy of this letter to your counsel, David Wornson.

June 22, 2006
Page 2

Sincerely,



James L. Pray

JLP:hs

cc: D. Wornson
A. Vander Leest
R. J. Lewis
L. Clabaugh

36109 06/26/06 AM11:45

IOWA DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF:

**SULLY TRANSPORT, INC.,
BICE OIL CO., and
TIM BICE**

**ADMINISTRATIVE ORDER
NO. 2002-WW-38
NO. 2003-HC-08**

**STIPULATION OF DISMISSAL OF
SULLY TRANSPORT, INC.,
BICE OIL CO., and
TIM BICE**

This Stipulation of Dismissal is entered into by and between the Department of Natural Resources ("Department") and Sully Transport, Inc., Bice Oil Co., and Tim Bice ("Appellants") on the date set forth below.

I. PROCEDURAL HISTORY AND FACTS

1. On Saturday, May 11, 2002, at 7:00 a.m., a driver for Bice Oil Co. overfilled an aboveground bulk storage tank at a bulk oil facility operated by Quick Oil Co. in Herndon, Iowa.
2. Department field staff conducted an investigation and found that diesel fuel was reaching a nearby stream. Hydro-Kleen was hired by Sully Transport to respond to the spill and subsequently removed contaminated water and soil from the site.
3. The Department required that Sully Transport submit a written report detailing the incident by July 5, 2002, which was done. Sully also was required by the Department to submit a Tier 1 site assessment.
4. On the 14th day of October, 2002, the Iowa Department of Natural Resources issued Administrative Order No. 2002-WW-38/No., 2003-HC-08 against Sully Transport, Inc., Bice Oil Co., and Tim Bice for a release of diesel fuel on May 11, 2002.
5. Sully Transport, Inc., Bice Oil Co., and Tim Bice subsequently filed an Appeal from the Administrative Order. During the pendency of the appeal, Sully Transport retained an environmental consultant to complete a Tier 1 site assessment of the May 11, 2002 release of diesel fuel at the Quick Oil site in Herndon.
6. On November 4, 2002, Sully Transport filed the required Tier 1 site assessment report. This Tier 1 site assessment included three soil borings and four groundwater monitoring wells. As stated in the May 9, 2003 letter from the Department to Sully Transport, based on the Department's examination of the files and an inspection of the site on April 25, 2003, the

Department "found no evidence of residual petroleum products from the spill." The Department concluded that no further action will be required for this incident.

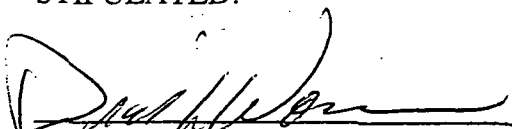
7. The Department is continuing oversight into the assessment of the Quick Oil bulk oil site in Herndon for pre-existing contamination and this Stipulated Order of Dismissal does not affect, diminish or restrict the right of the Department to continue that oversight and investigation or to impose any requirements allowed by Iowa law except as it may apply to the Appellants. The Department specifically reserves the right to proceed against any entities or individuals not a party to this Stipulated Order of Dismissal.

8. The Appellants and the Department desire to conclude and settle this administrative action. The Department acknowledges that the Appellants have concluded their obligation to remediate the Quick Oil Co. bulk oil site, and Appellants are willing to further stipulate to certain requirements set forth below. Therefore, in full settlement of any and all claims by the Department against the parties to the Administrative Order, the Department and Sully Transport, Inc., Bice Oil Co., and Tim Bice agree to the following terms:


- a. Sully Transport, Inc., Bice Oil Co., and Tim Bice shall immediately and hereafter cease the discharge of pollutants in violation of Iowa law.
- b. Sully Transport, Inc., Bice Oil Co., and Tim Bice shall promptly report any hazardous conditions to the Department, as required by Iowa Code section 455B.386.
- c. A penalty of \$4,000.00 is assessed and shall be paid within thirty (30) days of the execution of this Order.
- d. Sully Transport, Inc., Bice Oil Co., and Tim Bice agree to dismiss their appeal and to waive any further rights of appeal.

Dated this 26 day of November, 2003

STIPULATED:



DAVID WORNSON
IOWA DEPARTMENT OF
NATURAL RESOURCES
Wallace Building
502 E. 9th Street
Des Moines, IA 50319-0034



JAMES L. PRAY
BROWN, WINICK, GRAVES, GROSS,
BASKERVILLE AND SCHOENEBAUM, P.L.C.
666 Grand Avenue
Suite 2000
Des Moines, IA 50309-2510

APPROVED BY SULLY TRANSPORT, INC.

Warren Vanderleest

By: Warren Vanderleest

Title: President

Copy to:

David Wornson
Wallace State Office Building
Des Moines, IA 50319

Michael Murphy
Legal Services Bureau
Wallace State Office Building
Des Moines, IA 50319

James L. Pray
BROWN, WINICK, GRAVES, GROSS,
BASKERVILLE AND SCHOENEBAUM, P.L.C.
666 Grand Avenue
Suite 2000
Des Moines, IA 50309-2510

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IOWA DEPARTMENT OF NATURAL RESOURCES — CASHIER MEMO

DATE:

11-26-03

Receipt checked and/or receipt
approved for deposit.

TO:

Marlg

DATE:

DIV/BUR:

(Employee's Signature)

Amount:

CASH -

CHECK -

MONEY

ORDER -

DEPOSIT

SLIP -

STATE

WARRANT

Date &

War. No.

Federal

Warrant

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A-W UST PENLITY

CHECK

4000.00

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11-26-2003 #502138CLERK 1

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Remitted by:

Solly Transport Inc 601 8th Street

For:

Solly #A 50281

Deposit to:

Fund No.

Receipt/Revenue Category:

RETURN ORIGINAL TO CASHIER'S OFFICE

CFN 542 - 0482



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

May 9, 2003

Warren Vander Leest
Sully Transport
601 8th Street
Sully, Iowa 50251


Re: Quick Oil Company, 1127 Herndon Road, Herndon, Iowa 50026

Dear Mr. Vander Leest:

The Iowa Department of Natural Resources, Contaminated Sites Section, (Department) has completed the review of the files for the May 11, 2002 diesel spill at the Quick Oil Company site in Herndon, Iowa, spill no. 051102-TMN-2230. Also, on April 25, 2003, the Department inspected the off site spill flow path (unnamed drainage ditch flowing to the northeast from the site) and found no evidence of residual petroleum products from the spill. Therefore, it has been determined that no further action will be required for this incident, spill no. 051102-TMN-2230, at this time by Sully Transport. A decision to close the spill file and address Administrative Orders No. 2002-WW-38 and 2002-HC-08 will be made after the current property owner and site operator have completed a site assessment of the Quick Oil Company storage tank area.

If you have any questions or need further information please feel free to call or e-mail at (515) 281-4171 or dan.cook@dnr.state.ia.us.

Sincerely,



Daniel Cook

Environmental Specialist Senior
Contaminated Sites Section

c: Thad Nanfito, Iowa DNR Field Office 4



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

May 9, 2003

CERTIFIED MAIL

Vernon Van Gundy
3120 Highway 141
Jamaica, Iowa 50128

Rod Gittins
Quick Oil Company
234 Willis Avenue
Perry, Iowa 50220

Re: Quick Oil Company, 1127 Herndon Road, Herndon, Iowa 50026

Dear Mr. Van Gundy and Mr. Gittins:

The Iowa Department of Natural Resources, Contaminated Sites Section, (Department) has completed the review of the files for the May 11, 2002 diesel spill at the Quick Oil Company site in Herndon, Iowa, Spill No. 051102-TMN-2230. Based on this and previously obtained information it has been determined that further environmental assessments shall be completed for the above ground storage tank site located at 1127 Herndon Road, Herndon, Iowa.

The environmental assessment shall be completed as described in the Iowa Administrative Code IAC-567-133, Rules for Determining Cleanup Actions and Responsible Parties, or a Tier 2 under IAC-567-135, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks. If you choose IAC-567-133 you shall have 45 days from the receipt of this letter to submit a site assessment plan as described in 133.2. If you choose IAC-567-135 you shall have 20 days from the receipt of this letter to notify the Department that a certified groundwater professional has been attained and the Tier 2 process is underway.

If you have any questions or need further information please feel free to call or e-mail at (515) 281-4171 or dan.cook@dnr.state.ia.us.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Cook".

Daniel Cook
Environmental Specialist Senior
Contaminated Sites Section

encl: IAC-567-133
IAC-567-135

c: Thad Nanfite, Iowa DNR Field Office 4 w/out encl.