

detergent regulations.

b. As a result of that inspection, EPA determined that the Respondent failed to comply with the requirements of 40 C.F.R. §§ 80.157 or 80.170, as applicable, in violation of 40 C.F.R. §§ 80.155(b) or 80.168(b), respectively, in that:

(i) The detergent VAR compliance standard was not attained during the May, 1996 monthly compliance period;

(ii) The detergent VAR compliance standard was not attained during the September, 1997 monthly compliance period;

(iii) During the July, August, September, and October, 1997 monthly VAR compliance periods, the gasoline was being additized with a detergent not certified for use in these periods, and/or the VAR compliance forms misrepresented that the gasoline was being additized with this particular detergent, which was not certified for use in these periods;

(iv) No VAR compliance record was created for the gasoline transferred on July 31, 1997;

(v) No VAR compliance record was created for the Exxon gasoline transferred on 2/28 - 3/2/98;

(vi) In the May, 1996 VAR compliance period, the entire premium product transferred from the Amoco Yorktown terminal was not accounted for on the VAR compliance form;

(vii) The VAR compliance forms for 6 months in 1995 through 1997 significantly misidentified volumes of gasoline transferred;

(viii) The VAR compliance forms for 9 months in 1995 through 1997 significantly misidentified volumes of detergent used;

(ix) The VAR compliance forms for 19 months in 1995 through 1998 misidentified the terminal's actual detergent concentration attained;

(x) None of the VAR compliance forms were appropriately signed, dated, and/or certified for accuracy;

(xi) None of the VAR compliance forms indicated any changes to the additization equipment concentration rate that occurred during the compliance period, and the VAR compliance forms for 16 compliance periods in 1995 through 1997 failed to identify the initial equipment concentration rate that was set during the periods;

(xii) The beginning or ending times and/or dates of the VAR compliance periods were inaccurately recorded on 10 VAR compliance records in 1995 - 1998;

(xiii) The detergent's minimum legal concentration was misidentified on 7 VAR compliance forms in 1995 - 1998;

(xiv) The VAR forms for 5 months in 1996 - 1998 indicated a detergent transition, without any supporting documentation being maintained of each transition and of its compliance with regulatory requirements; and/or, the terminal incorrectly listed the detergent actually being used in these months;

(xv) Separate supporting documentation does not exist establishing the reported gasoline volume on the Amoco February, 1998 VAR compliance form.

(xvi) Separate supporting documentation does not exist establishing the reported gasoline volume on the Exxon February, 1998 VAR compliance form.

3. After considering the gravity of the violations and the

Respondent's history of compliance under the detergent regulations, EPA proposed in the NOV a civil penalty of fifty-six thousand six hundred dollars (\$56,600).

4. The Respondent neither admits nor denies the allegations in the NOV.

5. The parties, desiring to settle and resolve this matter, in consideration of the mutual covenants and agreements contained herein, which consideration is acknowledged by the parties to be adequate, agree to the following facts and terms set forth herein.

B. Terms of Agreement

1. The parties agree that the settlement of this matter is in the public interest and that this Agreement is the most appropriate means of resolving the matter.

2. Jurisdiction to settle this matter exists pursuant to section 211 of the Act, 42 U.S.C. § 7545, 40 C.F.R. Part 80, and other provisions of law.

3. In January of 1999, authorized representatives of the EPA inspected the Respondent's Yorktown Terminal detergent blending facility to determine Respondent's compliance with the detergent regulations.

4. At all relevant times the Respondent was the detergent blender within the meaning of 40 C.F.R. § 80.140.

5. As a result of EPA's January 1999 inspection, the EPA issued an NOV to Respondent on January 23, 2001 asserting a minimum of sixteen (16) violations of the detergent regulations at Respondent's Yorktown Terminal from January 1995 through November, 1998.

6. After considering the gravity of Respondent's violations alleged in the January 23, 2001 NOV, the Respondent's history of

compliance, the assertions of compliance in Respondent's reply to the NOV; the terms of this Agreement, the Respondent's efforts towards correcting violations and preventing future violations, and other facts presented by the Respondent, EPA has determined to conditionally remit and mitigate the penalty proposed in the NOV to thirty nine thousand six hundred twenty dollars (\$39,620).

7. As a means of resolving the allegations in EPA's January 23, 2001 NOV, Respondent agrees to pay to EPA a penalty of thirty nine thousand six hundred twenty dollars (\$39,620) within sixty (60) days of receipt of the fully executed Settlement Agreement from the EPA (the "penalty due date"). Late payment of this civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay this penalty to EPA by cashier's check or certified check, with the notation "AED/MSEB - 6016", payable to the "United States of America". The penalty is to be mailed to the following address:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 306277M
Pittsburgh, Pennsylvania 15251
Attention: AED/MSEB - 6016

A copy of the penalty check shall be simultaneously forwarded to Judith Lubow at the following address:

Judith Lubow, Staff Attorney
U.S. Environmental Protection Agency
12345 West Alameda Parkway, Suite 214
Denver, CO 80228

8. Time is of the essence to this Agreement. Upon failure to timely perform by the payment due date identified in paragraph 7

of this Agreement, the entire proposed civil penalty of fifty-six thousand six hundred dollars (\$56,600) shall immediately be due and owing. The parties agree that upon such default or failure to comply by Respondent, the EPA may commence an action to enforce this Agreement, or to recover the civil penalty pursuant to § 205 of the Clean Air Act; or pursue any other remedies available to it. The Respondent specifically agrees that in the event of such default or failure to comply, the EPA may proceed in an action based on the original claim of violations of § 211 of the Act, 42 U.S.C. § 7545, and the Respondent expressly waives its right to assert that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of the passage of time.

9. This Agreement becomes effective upon the date signed by the EPA, after which time a fully executed copy of the Agreement shall be returned to the Respondent.

10. The parties hereby represent that the individual(s) executing this Agreement on behalf of the respective party are authorized to do so and that such execution is intended and is sufficient to bind the party and, when applicable, its officers, agents, directors, owners, heirs, assigns, and successors.

11. Upon execution of this Agreement by EPA, the Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to matters agreed to herein.

12. The terms of this Agreement are contractual and not a mere recital. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby.

13. The validity, enforceability and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.

14. Upon completion of the terms of this Agreement, the matters in the January 23, 2001 NOV to Respondent shall be deemed terminated and resolved. Nothing herein shall limit the right of the EPA to proceed against the Respondent in the event of default or noncompliance with this Agreement; for violations of § 211 of the Clean Air Act, 42 U.S.C. § 7545, which are not the subject matter of this Agreement; or for other violations of law.

The following agree to the terms of this Agreement:

Amoco Oil Company

by: James A. Nolan, Jr.
(Printed Name:) James A. Nolan, Jr.
(Printed Title:) Attorney

Date: May 16, 2001

**United States
Environmental Protection Agency**

by: Richard Biondi
Bruce C. Buckheit
Director, Air Enforcement Division
Office of Enforcement and Compliance Assurance

Date: 6/12/01