



continue in business, and such other matters as justice may require, the EPA proposes a civil penalty of \$15,000 (hereafter "the proposed penalty").

3. 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 as set forth herein.

#### Terms of Agreement

4. The parties agree that the settlement of this matter is in the public interest and that this Settlement Agreement ("Agreement") is the most appropriate means of resolving the matter.

5. By entering into this Agreement, Respondent does not admit that it is in any way responsible for the alleged violation or that any violation has occurred.

6. The parties stipulate and agree to the following matters. It is further agreed that these stipulations are applicable to this Agreement and any enforcement or penalty proceeding arising out of this Agreement or the subject matter of this Agreement:

a. At all relevant times, Respondent was a retailer and/or distributor as defined within the meaning of 40 C.F.R. § 80.2.

b. On June 8, 1996, an EPA approved compliance survey was conducted at Respondent's Citgo branded retail outlet located at 1053 Farmington Avenue, Bristol, Connecticut. The survey was conducted to determine compliance with section 211(k) of the Act, 42 U.S.C. § 7545(k) and the regulations issued thereunder (40 C.F.R. Part 80, subpart D).

c. As a result of the survey, EPA has determined that Respondent's retail outlet, which is located in the VOC-Control Region 2 reformulated gasoline covered area, was selling, dispensing, or offering for sale gasoline represented to be reformulated whose Rvp exceeded the 8.3 psi standard. The sample of gasoline taken from the retail outlet had a Rvp of 9.2 psi.

d. Where the gasoline contained in any storage tank at any retail outlet is found in violation, 40 C.F.R. § 80.79(a)(1) states that the retailer and/or distributor shall be deemed in violation. EPA alleges that as the retailer and/or distributor

who sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of gasoline which is in the storage tank containing gasoline found to be in violation Respondent is liable for a violation of 40 C.F.R. § 80.78(a)(1) pursuant to 40 C.F.R. § 80.79(a)(1).

e. Jurisdiction to settle this matter exists pursuant to § 211 of the Clean Air Act, 42 U.S.C. § 7545, 40 C.F.R. § 80.20, and other provisions of law.

7. Respondent agrees to pay \$15,000 to the United States of America within thirty (30) days from the date that this Agreement is executed by EPA and returned to Respondent by certified mail return receipt requested ("the due date"). In accordance with the Debt Collection Act of 1982, if the debt is not paid within 30 days following the due date, interest will accrue from the due date as the rate of eight percent (8%) per annum through the date of actual payment. A late payment handling charge of \$20.00 will also be imposed if the amount is not paid by the due date, with an additional charge of \$10.00 for each subsequent 30 day period. A six percent (6%) per annum penalty will be applied on any principal amount not paid within ninety (90) days of the due date.

Respondent agrees to pay the amount by check made payable to the "United States of America," and to mail the payment to:

U.S. Environmental Protection Agency  
Washington Accounting Operations  
P.O. Box 360277M  
Pittsburgh, Pennsylvania 15251  
Attn.: AED/MSEB - 4700

A photocopy of the check shall be mailed simultaneously to:

J. L. Adair, Attorney/Advisor  
U.S. Environmental Protection Agency  
MSEB/AED (2242-A)  
401 M Street, S.W.  
Washington, D.C. 20460  
Attn.: AED/MSEB - 4700

8. Time is of the essence to this Agreement. Upon failure to timely perform pursuant to paragraph 7 of this Agreement, Respondent agrees to pay a stipulated penalty of \$30,000. Upon such default this amount shall be immediately due and owing. The parties further agree that upon such default or failure to comply, EPA may refer this matter to the United States Attorney General for collection pursuant to § 211(d) of

the Clean Air Act, 42 U.S.C. § 7545(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to § 211 of the Clean Air Act; or pursue any other remedies available to it. Respondent specifically agrees that in the event of such default or failure to comply, EPA may proceed in an action based on the original claim of violation of § 211 of the Clean Air Act, 42 U.S.C. § 7545, and 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 passage of time.

9. This Agreement becomes effective upon the date executed by EPA, at which time a copy will be returned to Respondent.

10. Respondent hereby represents that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so and that such execution is intended and is sufficient to bind Respondent.

11. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters consented 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, this matter shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against 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; or with respect to other matters not within the scope of the Agreement. This Agreement in no way affects, or relieves Respondent of responsibility to comply with other state, federal or local law or regulations.

The following agree to the terms of this Agreement:

DB Companies, Inc.

by: Charles H. DeBoer Jr

Date: 9/22/97

United States  
Environmental Protection Agency

by: Bruce C. Buckheit

Date: 9/30/97

Bruce C. Buckheit, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance

ATTACHMENT 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

APR 29 1997

Mr. Arthur J. Deblois, III  
President and Registered Agent for  
DB Companies, Inc.  
PO Box 9471  
Providence, Rhode Island 02940

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Re: File No. AED/MSEB - ~~4500~~ 4700

NOTICE OF VIOLATION OF THE CLEAN AIR ACT AND  
REQUEST FOR INFORMATION PURSUANT TO SECTION 114 OF THE  
CLEAN AIR ACT

Dear Mr. Deblois:

On June 8, 1996, an approved U.S. Environmental Protection Agency ("EPA") compliance survey was conducted at a Citgo branded retail outlet, located at 1053 Farmington Avenue, Bristol, Connecticut 06010. The survey was conducted to determine compliance with section 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the regulations issued thereunder (40 C.F.R. part 80, subpart D). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The applicable regulations provide that no person may manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as reformulated and intended for sale or use in any covered area unless such gasoline meets the applicable standards specified in 40 C.F.R. § 80.41. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

As a result of the inspection, EPA has determined that gasoline, represented to be reformulated and intended for sale or



Recycled/Recyclable  
Printed with Soy/Canola Ink on paper that  
contains at least 75% recycled fiber

use at your Citgo branded retail outlet, located at 1053 Farmington Avenue, Bristol Connecticut, which is located in the VOC-Control Region 2 reformulated gasoline covered area, was manufactured and sold or distributed, offered for sale or distribution, dispensed, supplied, offered for supply, stored, transported, or caused to be transported in violation of 40 C.F.R. § 80.78(a)(1) in that it failed to meet the applicable Rvp standard specified in 40 C.F.R. § 80.41 in violation of 40 C.F.R. § 80.78(a)(1). The gasoline had an Rvp of 9.2 psi which violates the applicable standard of 8.3 psi. As the distributor/retailer who sold, supplied, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation, DB Companies, Inc. is liable for the violation of 40 C.F.R. § 80.78(a)(1) pursuant to 40 C.F.R. § 80.79(a)(3).

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of each violation and the economic benefit or savings resulting from the violation. In determining the appropriate penalty for the noticed violation, we consider the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the Clean Air Act, actions taken by you to remedy the violation and to prevent recurrence of further violations, the effect of the penalty on your ability to continue in business and such other matters as justice may require.

We believe it is in your interest to demonstrate that remission or compromise of the penalty amount is appropriate. However, in order to assist us in developing the appropriate penalty and settlement positions, we have prepared the enclosed Request for Information. Under the law you are required to submit this information or be subject to additional penalties and other sanctions above and beyond those assessed for the fuel violation identified in this Notice. In addition, if you do not submit this information in a timely manner, we will be forced to make assumptions with regard to the factors to consider in determining the appropriate amount of civil penalty which may not be in your interest or whether remission or compromise of the civil penalty amount is appropriate.

We encourage early settlement of such matters. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is

corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

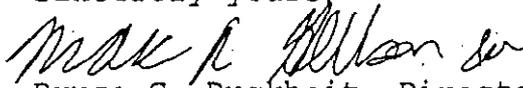
The EPA attorney designated below has been assigned to this case. All information should be sent to the case attorney.

Please contact this attorney regarding the Notice of Violation and Request for Information.

Jocelyn L. Adair, Attorney  
U.S. Environmental Protection Agency  
Mobile Sources Enforcement Branch (2242-A)  
Air Enforcement Division  
401 M Street, S.W.  
Washington, D.C. 20460  
Phone number: (202) 564-1011

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,



Bruce C. Buckheit, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance

Enclosure

cc: Arthur J. Deblois, III  
404 Prospect Street  
Seekonk, MA 02771

Arthur J. Deblois, III  
25 Concord Street  
Pawtucket, RI 02860

Enclosure

REQUEST FOR INFORMATION PURSUANT TO SECTION 114 OF THE  
CLEAN AIR ACT, 42 U.S.C. § 7414

Re: File No. AED/MSEB - <sup>4700</sup>~~4500~~

Section 114(a) of the Act, 42 U.S.C. § 7414(a), provides that " the Administrator may require any person.... who is subject to any requirement of this Act ...to make such reports ... and provide such other information, as the Administrator may reasonably require." Respondent is subject to the requirements and prohibitions of the reformulated gasoline and anti-dumping requirements of section 211(k) of the Act, 42 U.S.C. § 7545(k) and thereby is also subject to the informational requirements of section 114(a) of the Act.

Pursuant to the authority contained in section 114 of the Act, 42 U.S.C. § 7414, provide the following information for the period of January 1, 1996 to July 15, 1996 for DB Companies, Inc. and all its subsidiaries, parents, affiliates or related companies:

1. We are assuming your gross revenues (income before expenses or deductions) is over \$250 Million. If you do not agree, submit your financial statements for the prior three years and this year current to date including but not limited to balance sheets, profit and loss statements, statements of changes in position and federal income tax returns.

2. For both reformulated gasoline and conventional gasoline; documents or other evidence sufficient to demonstrate that you have, and actually utilize, a quality assurance program as set forth in 40 C.F.R. § 80.79(c) for reformulated gasoline.

3. Documents which identify the number, name and address of all the retail outlet and wholesale purchaser-consumer facilities to which Respondent distributed reformulated or conventional gasoline during the period of September 1, 1995 through September 15, 1996.

4. Documents demonstrating Respondent's safeguards and management oversight to prevent selling of conventional gasoline in reformulated gasoline covered areas.

5. Documents demonstrating Respondent's safeguards and management oversight to prevent selling of Non-VOC Controlled reformulated gasoline during the period of May 1st through September 15th in reformulated gasoline covered areas.

6. Documents demonstrating what actions were taken to remedy the violation, including the disposition of non-complying gasoline, and to ensure that similar types of violations are less apt to occur in the future.

7. Any and all other information indicating that remission or compromise of the civil penalty is appropriate. You may elect to provide a statement of the cause of the violation, if known, and any mitigating factors you desire to bring to our attention.

The response to this request shall be full, complete, and to the best of your knowledge. A reply which is false, misleading, or made without regard to its veracity is, in our judgment, equivalent to a refusal to submit information. In order for us to proceed expeditiously with our enforcement docket, your response must be submitted within fifteen days after the date of this letter. If you encounter difficulty in responding to this request within this time frame, please contact the case attorney identified herein. Absent a written extension of the required response date, your failure to respond by the date set forth may lead to immediate enforcement action and a lost opportunity for early settlement of this matter. EPA's enforcement options include the issuance of a compliance order by the Administrator under section 113(a) of the Act, or the filing of a civil action seeking a permanent or temporary injunction, or a civil penalty of not more than \$25,000 per day of violation, or both, under section 113(b) of the Act. Please be aware that a knowing or willful submission of false, fictitious, or fraudulent statements or representations may subject you to possible criminal liability for filing false statements.

Pursuant to EPA regulations appearing at 40 C.F.R. Part 2, you are entitled to assert a confidentiality claim covering any part of the submitted information. If you do not assert such a claim, the submitted information may be available to the public without further notice. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above cited regulations.

September 23, 1997

Jocelyn L. Adair, Attorney  
U.S. Environmental Protection Agency  
Mobile Sources Enforcement Branch (2242-A)  
Air Enforcement Division  
401 M Street, S.W.  
Washington, DC 20460

Re: File No. AED/MSEB-4700  
Notice of Violation and Request for Information  
Pursuant to Section 114 of the Clean Air Act

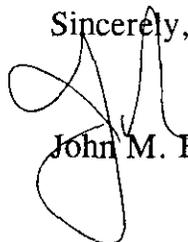
Dear Jocelyn:

Enclosed is a Settlement Agreement executed by DB Companies, Inc.

When you forward to me the fully executed Settlement Agreement, my client will pay the penalty as required under the Settlement Agreement.

Your courtesy and cooperation is appreciated.

Sincerely,



John M. Boehnert

JMB/emw

Enclosure

cc: Mr. Charles H. DeBlois, Jr.