

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C.

_____)		
In the matter of:)	
)	
MI-T-FINE CAR WASH, INC.)	File No. MSEB/AED - 4726
d/b/a MI-T-FINE #3)	
)	SETTLEMENT AGREEMENT
Respondent.)	
_____)		

THIS AGREEMENT is made and entered into by and between the United States Environmental Protection Agency (EPA) and Mi-T-Fine Car Wash, Inc. d/b/a Mi-T-Fine #3 located at 4136 Broadway Boulevard, Garland, Texas, (Respondent).

Preliminary Statement

a. On August 18, 1997, a Notice of Violation (NOV) was issued to the Respondent alleging that the Respondent had violated § 211 of the Clean Air Act (the Act), 42 U.S.C. § 7545, and the regulations promulgated thereunder at 40 CFR Part 80. The NOV stated that on June 14, 1996 at the Respondent's retail outlet at 4136 Broadway Boulevard, Garland, TX, (hereinafter "Mi-T-Fine #3), gasoline represented to be reformulated and intended for sale in a 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, and failed to meet the applicable Reid Vapor Pressure (RVP) standard. The Respondent was liable for this violation as the retailer of this facility. The NOV further stated that the statutory civil penalty is twenty-five thousand dollars (\$25,000) per day for each such violation plus the amount of economic benefit or savings resulting from the violation pursuant to § 211(d) of the Act, 42 U.S.C. § 7545(d).

b. 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

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

a. At all relevant times the Respondent was the gasoline retailer of the Mi-T-Fine #3 gasoline retail outlet, within the meaning of 40 CFR § 80.2 (k).

b. On June 14, 1996, a reformulated gasoline compliance

survey was conducted at the Mi-T-Fine #3 gasoline retail outlet. During the survey, a sample of regular grade gasoline was taken from the Mi-T-Fine #3 retail outlet for laboratory analysis. Analysis of the sample established that its RVP was in excess of the 7.4 psi standard specified in 40 C.F.R. § 80.41. This constitutes a violation of 40 C.F.R. § 80.78(a)(1).

c. As the retailer of this facility, the Respondent is liable for this violation pursuant to 40 CFR § 80.79(a)(1).

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

3. After considering the gravity of the violation, the Respondent's history of compliance, the terms of this Agreement, and other facts presented by the Respondent, EPA has determined to conditionally remit and mitigate the civil penalty to one thousand six hundred ninety-six dollars and forty cents (\$1,696.40). The Respondent agrees to pay one thousand six hundred ninety-six dollars and forty cents (\$1,696.40) within thirty days of receipt of the signed Settlement Agreement from the EPA. In the event the Respondent does not receive a copy of this Agreement within thirty (30) days following its execution by the EPA, the due date shall be thirty (30) days following the date of the Respondent's receipt of an executed copy. In accordance with the Debt Collection Act of 1982, if the debt is

not paid within thirty (30) days following the due date, interest will accrue from the due date at the rate of eight percent (8%) per annum, through the date of actual payment. A late payment handling charge of twenty dollars (\$20.00) will also be imposed if the amount due is not paid by the due date, with an additional charge of ten dollars (\$10.00) for each additional thirty (30) day period. Respondent agrees to pay this amount by cashier's check or certified check with the notation "AED/MSEB - 4726" payable to the "United States of America," and mailed to:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 306277M
Pittsburgh, Pennsylvania 15251
Attention: AED/MSEB - 4726

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

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

4. Time is of the essence to this Agreement. Upon failure to timely perform pursuant to paragraph 3 of this Agreement, or upon default of or failure to comply with any terms of this Agreement by the Respondent, the parties agree that upon such default of failure to comply, 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 violation 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.

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

6. The Respondent hereby represents that the individual or individuals executing this Agreement on behalf of the Respondent are authorized to do so and that such execution intended and is sufficient to bind the Respondent, its officers, agents, directors, owners, heirs, assigns, and successors.

7. 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 consented to herein.

8. 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.

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

10. Upon completion of the terms of this Agreement, this matter 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:

Mi-T-Fine Car Wash, Inc..

by: *L. H. Ramsey*
Luke H. Ramsey, President

Date: 9-16-98

**United States
Environmental Protection Agency**

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

Date: 9/30/97