

U. S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D. C.

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In the Matter of:)	
)	
Vitol S.A., Inc.)	SETTLEMENT AGREEMENT
)	AED/MSEB - 6037
Respondent.)	
)	

THIS AGREEMENT is made and entered into by and between the United States Environmental Protection Agency ("EPA") and Vitol S.A., Inc. located at 1100 Louisiana, Suite 5500, Houston, Texas 77002 ("Respondent" or "Vitol").

Preliminary Statement

1. On August 2, 2001, EPA issued a Notice of Violation ("Notice") to Respondent alleging that Respondent violated § 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545, and the reformulated gasoline ("RFG") and anti-dumping regulations promulgated thereunder at 40 CFR Part 80 ("Fuels Regulations"). EPA Fuels Regulations require reformulated and conventional gasoline to meet certain emission standards and impose a number of quality assurance, recordkeeping, and reporting requirements on refiners and importers. Violators of this law are subject to a maximum civil penalty of \$27,500 per day for each violation and the amount of the economic benefit or savings resulting from the violation.

2. After initially considering the gravity of the alleged violations, Respondent's history of compliance with the regulations, and the size of Respondent's business, EPA proposed in the Notice a civil penalty of \$184,500.

W.K.

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. 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. Jurisdiction to settle this matter exists pursuant to § 211 of the Clean Air Act, 42 U.S.C. § 7545, 40 CFR Part 80, and other provisions of law.
- b. At all relevant times, Respondent was a refiner and importer as defined within the meaning of 40 CFR § 80.2.
- c. From January 18 - 24, 2000, EPA audited Respondent to determine compliance with § 211(k) of the Act, 42 U.S.C. § 7545, and the Fuels Regulations issued thereunder at 40 CFR Part 80. This audit involved, in part, a review of certain records relating to Respondent's import and refining activities from 1996 through the third quarter of 1999.
- d. As a result of this audit, EPA alleged that Respondent:
 1. Violated 40 CFR § 80.41(d) at its Northville refinery in 1998 by failing to meet the minimum averaged VOC reduction requirements for VOC Region 2;
 2. Violated 40 CFR §§ 80.101 and 80.105 by aggregating refineries with importers for the purpose of determining compliance for the 1997 and 1998 reporting years;
 3. Violated 40 CFR § 80.128 by submitting one attest audit report summarizing the audits of multiple facilities for the 1996, 1997 and 1998 reporting years; and
 4. Violated 40 CFR § 80.75 by failing to report the volumes of imported GTAB from 1996 through 1998.

mlk

6. Respondent denies having offered gasoline for sale in violation of any EPA regulation or otherwise abrogated EPA's regulatory program and enters into this Agreement without any admission of such violations.

7. Respondent has taken steps to prevent future violations, including but not limited to, modifying its data entry procedures, hiring additional staff to work on compliance issues, and correcting a problem in its compliance software program.

8. After considering the gravity of the alleged violations, Respondent's history of compliance with the regulations, the economic benefit or savings resulting from the violations, Respondent's size of business, actions taken to remedy the violations and prevent future violations, and other factors unique to this case, EPA has determined to mitigate the civil penalty to \$95,000 subject to successful completion of the terms of this Agreement. Without admission, Respondent agrees to pay \$95,000 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 ("due date"). Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. 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 - 6037

A photocopy of the check shall be mailed simultaneously to:

Jeffrey A. Kodish, Attorney
U.S. Environmental Protection Agency
Mobile Sources Enforcement Branch

12345 West Alameda Parkway, Suite 214
Denver, CO 80228

9. Time is of the essence to this Agreement. Upon failure to timely perform pursuant to paragraphs 8 of this Agreement, Respondent agrees to pay a stipulated penalty of \$184,500. 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.

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

11. 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.

12. 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.

13. 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.

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

15. 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.

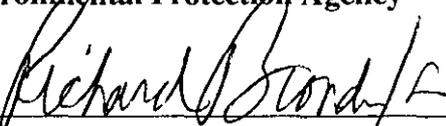
The following agree to the terms of this Agreement:

Vitol, S.A., Inc.

by: 
Printed Name: Matt Kemple
Printed Title: Trader

Date: February 18, 2002

**United States
Environmental Protection Agency**

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

Date: 3/8/02

