

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C.

_____)
In the matter of:)
)
Williams Energy Ventures, Inc.)
	File No. MSEB/AED - 5067)
)
Respondent.)
	SETTLEMENT AGREEMENT)
_____)

THIS AGREEMENT is made and entered into by and between the United States Environmental Protection Agency (EPA) and Williams Energy Ventures, Inc. (Respondent).

A. Preliminary Statement

1. On May 2, 2000, a Notice of Violation (NOV) was issued to Respondent alleging that 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 May 19, 1999 gasoline which had been sold and offered for sale was in violation of 40 C.F.R. § 80.78(a)(1). The Notice also stated that the Respondent, as the distributor of this product, was liable for this violation pursuant to 40 C.F.R. § 80.79(a).

The NOV further stated that the statutory civil penalty is Twenty-Seven Thousand Five Hundred Dollars (\$27,500) per day for each such violation plus the economic benefit or savings resulting from the violations pursuant to § 211(d) of the Act, 42 U.S.C. § 7545(d).

2. After considering the gravity of the violations and Respondent's history of compliance with the Act, EPA proposed in the NOV a civil penalty of Seventy-Four Thousand Five Hundred Dollars (\$74,500).

3. The EPA and the Respondent desire to settle this matter according to the mutual covenants and agreements contained herein. The consideration is acknowledged to be adequate, and the EPA and the Respondent agree as set forth herein.

B. Terms of Agreement

1. The EPA and the Respondent 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 EPA and the Respondent 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 a distributor within the meaning of 40 C.F.R. § 80.2 and/or a person within the meaning of section 302(e) of the Clean Air Act 42 U.S.C. § 7602(e).

b. On May 19, 1999, EPA conducted a reformulated gasoline ("RFG") inspection at Respondent's facility located at 4695 South Service Road, St. Peters, Missouri which is in VOC control Region 1. During the inspection, the inspectors took a sample of regular unleaded 87 octane gasoline which had been sold and offered for sale from Tank 1422 at the facility. EPA Laboratory analysis determined that the gasoline had a VOC emission performance reduction of 27.12 percent, which is less than the minimum VOC emissions performance reduction of 32.6% percent for VOC control Region 1. Investigation of this violation showed that Respondent allowed conventional gasoline already in the pipeline to be mixed with reformulated gasoline in Tank 1422 causing the violation. Between May 1 and May 17, Respondent sold 569,478 gallons of this product as RFG which was out of compliance with EPA's regulations.

c. This constitutes a violation of 40 C.F.R. § 80.78(a)(1). Respondent, as the distributor of this product, is liable for violating 40 CFR § 80.78(a)(1) pursuant to 40 CFR § 80.79(a).

d. On May 17, 1999, two days prior to the EPA inspection, Respondent learned from a corrected lab result that the product was out of compliance and immediately stopped sales from the tank. Respondent further tested all grades of gasoline being sold at the 11 retail stations which had received products from Tank 1422 between May 1 and May 17, 1999. The regular (87 octane) gasoline at 7 retail stations was out of compliance. Respondent additionally pumped out and replaced the premium gasoline at 5 retail stations which was found not to be in compliance with the regulations. Respondent's out-of-pocket costs for these actions to remedy the violation totaled approximately \$33,658.

d. In order to assure each gallon of gasoline sold is in compliance with the applicable gasoline standards, Respondent has taken steps to eliminate the conditions which caused the violation. In particular, Respondent has changed their reporting system for laboratory results to prevent this violation from happening in the future.

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

3. After considering the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of Respondent's business, Respondent's history of compliance with the fuels regulations, and Respondent's actions to remedy the violation, EPA has determined to conditionally remit and mitigate the proposed civil penalty to Forty-Four Thousand Seven Hundred Dollars (\$44,700) pending successful completion of the terms of this Agreement. Respondent agrees to pay Forty Four Thousand Seven Hundred Dollars (\$44,700) within thirty days of receipt of a signed settlement agreement from EPA.

In accordance with section 3717 of the Debt Collection Act of 1982, 31 U.S.C. § 3717, if the debt is not paid within thirty days following the due date, interest will accrue from the due date through the date of actual payment. Interest will be computed in accordance with section 3717(a) of the Debt Collection Act. A late payment handling charge of \$20.00 will also be imposed if the amount due is not paid by the due date, with an additional charge of \$10.00 for each thirty-day period. The Respondent agrees to pay the amount due by cashier's check or certified check payable to the "United States of America" and mailed to:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 360277M
Pittsburgh, Pennsylvania 15251
ATTN: AED/MSEB - 5067

A copy of the check shall be forwarded simultaneously to:

Angela E. Fitzgerald (2242A)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

4. Timely performance is essential 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 or failure to comply,

a. The original amount of Seventy Four Thousand Five Hundred Dollars (\$74,500) becomes due and owing, and

b. 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. 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 Act, 42 U.S.C. § 7522, 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 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 the 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 is 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 are not mere recitals. 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 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:

Williams Energy Ventures, Inc.

by: Michael Means Date: 9/7/00



United States
Environmental Protection Agency

by: Richard Brendt H Date: 9/21/00
Bruce C. Buckheit, Director
Air Enforcement Division