2/13/80

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE REGIONAL ADMINISTRATOR

In re	)	
	)	
TEXACO INC.,	)	Docket Nos. I UNG-355C & 356C
	)	
Respondent	)	

INITIAL DECISION

These are consolidated proceedings for the assessment of civil penalties for violation of the Clean Air Act, Section 211, 42 U.S.C.A. 7545 (1978 Supp), and the regulations issued thereunder, 40 CFR Part 80. The civil penalties are assessed pursuant to Section 211(d) of the Act. The violations charged are that unleaded gasoline offered for sale at two Texaco-branded service stations exceeded the lead content for such gasoline specified in 40 CFR 80.2(g) of the regulations. The sole issue is whether Texaco Inc. is liable for the violations under 40 CFR 80.23, of the regulations. A penalty of $6,500 for each violation is requested.

The cases have been submitted on stipulations of fact and the parties have agreed to dispense with an oral hearing. The fact stipulations and their accompanying exhibits for Docket Nos. I UNG-355C and I UNG-356C, except for the differences in the retail stations involved and the dates of the violation, are identical. The parties have filed briefs, which in Texaco's case include proposed findings of fact, conclusions of law and a proposed order.

The stipulations of fact between the EPA and Texaco Inc. and the exhibits submitted with them marked Texaco, Exhibits 1 through 10, are admitted into evidence. On consideration of the stipulations of fact and of the briefs of the party, it is found that Texaco Inc. is liable for the violations found herein. A civil penalty of $13,000 is assessed. All proposed findings of fact not specifically adopted, are rejected.

Findings of Fact

1. Respondent Texaco Inc., ("Texaco") is a "refiner" of gasoline within the meaning of 40 CFR 80.2(c), whose gross income exceeds $5 million annually.
2. Brileya's Service Station, located at No. 213 No. Main Street, Rutland, Vermont, and Cal's Texaco, located at 213 No. Main Street, Rutland Vermont, offer gasoline for sale at retail and are "retail outlets" within the meaning of 40 CFR 80.2(j).
3. On March 8, 1978, an Environmental Protection Agency Inspector collected a sample of gasoline offered for sale by Brileya's Service Station through a pump bearing the label "Unleaded Gasoline", and Texaco's corporate, trade or brand name.
4. The lead content of the sample of gasoline collected at Brileya's Service Station was equivalent to 0.136 gram of lead per gallon, and exceeded the requirement for unleaded gasoline specified in 40 CFR 80.2(g), that unleaded gasoline contain not more than 0.05 gram of lead per gallon.

5. On March 7, 1978, an Environmental Protection Agency Inspector collected a sample of gasoline offered for sale by Cal's Texaco through a pump bearing the label "Unleaded Gasoline," and Texaco's corporate, trade or brand name.

6. The lead content of the sample of gasoline collected at Cal's Texaco was equivalent to 0.102 gram of lead per gallon, and exceeded the requirement for unleaded gasoline specified in 40 CFR 80.2(g), that unleaded gasoline contain not more than 0.05 gram of lead per gallon.

7. The gasoline labelled as "unleaded gasoline" from which the samples were taken was purchased by Brileya's Service Station and Cal's Texaco from Aungst, Inc., who is a reseller of gasoline as the term "reseller" is defined in 40 CFR 80.2(n).

8. Aungst, Inc., in turn, had purchased said gasoline from respondent Texaco, at a terminal owned and operated by Texaco in Glenmont, New York (the "Albany Terminal").

9. Texaco has sold said gasoline to Aungst, Inc. since April 8, 1976, pursuant to a contract which contains the following provisions dealing with gasoline sold by Texaco as unleaded gasoline.

Unleaded Gasoline

> Purchaser warrants and agrees that Purchaser will not (1) mix or allow Lead-Free Texaco gasoline to be mixed with any gasoline containing lead anti-knock agents and then sell it as Texaco gasoline; and (2) will not store, transport or deliver Lead-Free Texaco Gasoline in or through any container, tank, pump, pipe, or other element of its gasoline storage or distribution system unless such facilities comply with all Federal, State and local government requirements for dispensing unleaded gasoline.

Purchaser further warrants and agrees that Purchaser, its employees or agents, will not introduce, cause or allow the introduction of leaded gasoline into any motor vehicle which is labeled "UNLEADED GASOLINE ONLY" or which is equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline only.

Purchaser represents that it has received and read a copy of Texaco's "Guidelines for the Handling of Lead-Free Texaco Gasoline -- Wholesaler and Consignees," which has been provided for Purchaser's information in order to make Purchaser aware of the proper handling procedures which would assist it in complying with the warranties of the preceding paragraphs and the relevant Federal Environmental Protection Agency Regulations pertaining to unleaded gasoline.

Purchaser will allow Seller, its employees or agents, to enter Purchaser's place or places of business at any time to obtain such samples or conduct such tests as may, in Seller's judgment, be reasonably required to confirm that Purchaser is complying with the aforesaid obligations, and Purchaser will cooperate with Texaco in any investigation of any alleged violations of such obligations.

Purchaser agrees that it will defend, indemnify and hold Seller harmless from and against all present and future claims, demands, suits, actions, proceedings and litigation arising out of any alleged liability for Purchaser's storage, transportation or delivery of Lead-Free Texaco Gasoline in or through any container, tank, pump, pipe or other element of its gasoline storage or distribution system or the introduction of leaded gasoline into any motor vehicle which is labeled "UNLEADED GASOLINE ONLY." Purchaser further agrees that it will, on Seller's demand, promptly pay all losses, costs, damages, obligations, judgments, fines, penalties, expenses and fees suffered or incurred by Tecaco by reason of any such claims, demands, suits, actions, proceedings, or litigation, except those which are caused by the sole negligence of Seller or its employees.

Seller warrants that Lead-Free Texaco Gasoline purchased from Seller shall conform to Seller's specifications for same at the time of delivery. Purchaser shall notify seller immediately of any claim for variance in quality, and Seller shall have an opportunity to inspect and investigate at any time thereafter. Failure of Purchaser to so notify Seller or cooperate in any investigation shall operate as a waiver of any and all claims by the Purchaser hereunder.

In the event that Purchaser sells Lead-Free Texaco Gasoline to any other person, firm or company for resale under Seller's corporate, trade or brand name, Purchaser shall obtain from every such buyer for Seller's benefit in writing the warranty and agreements stated in this Clause 9 and shall hold Seller harmless and indemnify Seller from any penalty, cost, judgment, loss, fine or expense, including, but not limited to, attorneys' fees and court costs which Texaco may incur as the result of the breach, actual or alleged, of the obligations of the Purchaser or any person, firm or company buying Seller's gasoline for resale from Purchaser.

10. The Guidelines for the Handling of Lead-Free Texaco Gasoline referred to in the contract provide in pertinent part as follows;

Service Station Tankage - (Previously containing leaded product)

All leaded product should be removed from the tank, lines and dispensers. The tank should then be flushed three times with approximately 25-50 gallons of Lead-free product, depending on size of tanks. It has been found that repeated flushing with small quantities of unleaded product is satisfactory. Upon completion of flushing, add minimal amount of product to a tank that can be dispensed. Then flush lines and dispenser thoroughly, normally twice the volume of line.

The product should then be tested for lead content to determine product is on test. If not, additional flushing of tank is required, repeating the above sequence. Experience has been that three flushings are generally satisfactory. Experience may indicate two flushings will give satisfactory results.

* * *

Tank Truck

Dedicated compartments are not necessary, however, each compartment should have separate unloading lines with no manifolding. Strong control is necessary to be sure that all residual product, if any, is drained from the compartment prior to the loading of unleaded Texaco gasoline.

Split loads of unleaded Texaco gasoline with kerosene, Diesel fuel, furnace oil or other gasolines should not be permitted in units which do not have separate outlets from the compartments and products are separated by double walls or an empty compartment.

If a meter is utilized on the truck, then the meter should be flushed with unleaded Texaco or in these instances, dedication of compartment or trucks may be warranted depending on local conditions.

Tank cars are to be inspected to ascertain that tank car is free from any previous product and condition of car is acceptable for loading.

Delivery of Unleaded Texaco Products to the Service Station or Consumer

Extreme care is to be taken to be sure that all products are dropped to the appropriate tank. Tank identification by product is most important.

Where delivery is made through metered lines, then flushing is required.

11. Gasoline identified and sold by Texaco as "lead free" to Aungst during the time the violations occurred, complied with the unleaded gas regulations at the time such gasoline was delivered to Aungst.

12. Under the procedures followed by Texaco, which procedures were in effect at the time the violations occurred, Aungst, Inc.'s employee operates the loading rack arm at the Albany Terminal, loading gasoline designated as "lead-free" into Aungst, Inc.'s truck. Said gasoline is however released by the action of a Texaco employee in the Terminal meter room at the Albany Terminal. Texaco asserts no other control over Aungst, Inc.'s employee during said loading operation.

13. Under the procedures followed by Texaco, which procedures were in effect at the time the violations occurred, after Texaco's "lead free" product is loaded on Aungst, Inc.'s truck at Texaco's

Albany refinery, Aungst, Inc.'s employee receives from Texaco's employee a truck bill of lading and manifest form. Texaco has no knowledge of Aungst, Inc.'s subsequent handling of said "lead free" product.

14. Under the procedures followed by Texaco, which procedures were in effect at the time the violations occurred, Texaco furnishes Aungst with a copy of the Guidelines but makes no effort to insure that Aungst, Inc. does, in fact, comply with its contractual obligations or with Texaco's Guidelines in handling Texaco's "lead free" gasoline after receiving the product from Texaco.

Discussion, Conclusion and Proposed Penalty

The stipulated facts in this case establish that two retail stations offered Texaco-branded gasoline for sale from pumps bearing the label "Unleaded Gasoline", which gasoline was found to contain lead substantially in excess of 0.05 gram of lead per gallon, the limit prescribed for unleaded gasoline by the regulations, 40 CFR 80.2(g). Under such circumstances, the regulations, 40 CFR 80.23(a), make Texaco as the refiner of the branded gasoline, prima facie liable for the violations.

Complainant EPA concedes that the gasoline did not contain excess lead when it was delivered to the reseller. The gasoline, consequently, must have become contaminated through negligent handling of the gasoline by someone other than Texaco, and the question is whether under the regulations Texaco is vicariously liable for the violations.[1/] The specific regulation involved is 40 CFR 80.23(b)(iii), which provides that a refiner who did not itself cause the violation shall not be liable if it can demonstrate:

> That the violation was caused by the action of reseller, or a retailer supplied by such reseller, in violation of a contractual undertaking imposed by the refiner on such reseller designed to prevent such action, and despite reasonable efforts by the refiner (such as periodic sampling) to insure compliance with such contractual obligation....

The term "was caused" as used in the regulation is defined as meaning, "that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another." 42 Fed. Reg. 45306 (Sep 9, 1977).

1/ The fact stipulations are silent on whether Aungst or the retail station was the negligent party in each case. Complaints were issued against Aungst and the retailers as well as against Texaco. Proceedings against Aungst, and Brileya's Service Station, however, were terminated by consent settlements and the complaint against Cal's Texaco was withdrawn. The position which Texaco appears to take is that it is immaterial to the question of its liability, whether the violation was caused by Aungst or by the retailer.

As already noted, Texaco has met its burden of showing that the violation "was caused or must have been caused by another." The issue then centers on the sufficiency both of the contractual undertaking which Texaco has imposed on the reseller, and of Texaco's efforts to insure compliance with that contractual undertaking.

The contractual undertaking obtained by Texaco from Aungst obligates Aungst to comply with Federal, State and local unleaded gas requirements, and to impose a similar obligation on those purchasing Texaco-branded unleaded gasoline from Aungst. The contract further provides for Aungst's indemnification of Texaco, if Texaco is held liable for a violation caused by Aungst. Aungst, however, for reasons not disclosed by the stipulated facts, is not required to follow the procedures in the Guidelines for assuring compliance with the unleaded gas requirements.[2/] It is questionable

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2/ It is to be noted that contracts of other refiners have required resellers purchasing branded gasolines to follow specific procedures. See e.g., Amoco Oil Co., Docket No. I UNG-208C (EPA, Oct. 3, 1977) (Initial Decision). The contract in that case between the refiner and reseller required the reseller to follow the refiner's established procedures. Id. at 5-7.

therefore, whether Texaco's contract satisfies the regulation's requirement of a contractual undertaking "designed to prevent [violations]."[3/] A decision on this question is not necessary, however, since the regulation also requires that Texaco make reasonable efforts to ensure that Aungst will comply with the contractual undertaking that Texaco has imposed, and it is found that Texaco has not done so.

3/ See Texaco, Inc., Docket No I UNG-228C 20 (EPA Nov. 4, 1977) (Initial Decision) appeal pending, in which a similar contractual agreement by Texaco was held not to comply with the regulations. As the EPA stated in its explanation of what would be considered a satisfactory contractual obligation in order for the refiner to escape liability, 39 Fed. Reg. 42360 (Dec. 5, 1974):

> It should be emphasized, however, that a boiler-plate provision reciting that a reseller or distributor will comply with the requirements of this Part [80] adds nothing to existing legal obligations and would also fail to accomplish EPA's objectives in assuring the availability of unleaded gasoline meeting the standards. Similarly, a provision requiring a reseller or other party to indemnify a refiner if a violation is caused by such party would not be considered a contractual undertaking designed to prevent violations if the indemnity clause is unaccompanied by specific quality assurance measures to be observed by the contracting party.

Texaco's only effort to insure compliance by Aungst with the contractual undertaking is to furnish Aungst with a copy of its Guidelines.[4/] The Guidelines may assist those who are conscientious about their compliance, but they do not by themselves reduce the risk of violations by resellers or their customers who are careless or unwilling to take the trouble to follow the necessary procedures for keeping the unleaded gasoline from being contaminated. As the EPA stated in its explanation of the regulations, the "reasonable efforts" required from refiners by the regulations are that "they exercise oversight responsibility so that the [contract] obligations are not taken lightly". 39 Fed. Reg. 45359 (Dec. 5, 1974). More, then, is required from Texaco than simply recommending procedures.

4/ Texaco claims that it had a periodic sampling program to monitor unleaded gasoline sold to its distributors. But the only sampling Texaco did was of unleaded gasoline in its own tanks and of the unleaded gasoline right after it had been loaded into the reseller's truck before it left the refinery. This last sampling would be a final test of Texaco's own procedures. The fact stipulation does not disclose if the sampling was also to ascertain the reseller's compliance in keeping the tank compartment carrying the unleaded gasoline free of any lead-bearing products as suggested in the Guidelines. Since Texaco does not claim that this was a purpose of the sampling, it can be assumed that the sampling was done solely to monitor Texaco's own compliance.

Texaco argues that it is reasonable to assume that another is acting in accordance with its contractual obligations until there is some evidence of a violation. That is a convenient assumption for Texaco to make in order to lighten its burden of overseeing compliance by others, but it is without record support and is in conflict with the regulations.

Texaco also argues that it has done all that can reasonably be required of it to satisfy its obligation to oversee compliance with the resellers' contractual obligations, asserting that it lacked control over Aungst and it had no right to enter the premises and sample the unleaded gasoline at the retail stations offering the contaminated unleaded gasoline. To hold it liable, therefore, Texaco claims, would be tantamount to imposing strict vicarious liability on it, contrary to the decisions in Amoco Oil v. EPA, 501 F. 2d 722 (D.C. Cir. 1974) ("Amoco I"), and Amoco Oil Co. v. EPA, 543 F. 2d 270 (D.C. Cir. 1976) ("Amoco II"). This argument is unpersuasive.

Texaco's assertion of lack of control over Aungst ignores the extent to which Texaco may exercise control through the terms and conditions under which it sells its gasoline and permits the use of its brand name.[5/] The only evidence of control or the power

5/ It should be noted that where a party does possess control over those purchasing its product through its control over the supply of that product, that control may be exercised by persuasion as well as by the more drastic overt action of terminating the supply. See e.g., Simpson v. Union Oil Co. of America, 377 U.S. 13, 17 (1964). In Simpson control through the fear of non-renewal of short term leases was exercised to enforce illegal resale price maintenance agreements. Here, such control as exists would be used to carry out a legitimate objective, namely, compliance with the unleaded gas regulations.

to control possessed by Texaco in this case is found in the contract (Texaco Ex. 6). The contract provides (Texaco Ex. 6, Par. 11) that Texaco may terminate the contract if Aungst breaches any of the terms, covenants, warranties, agreements and conditions of the contract, which would include the warranties, agreements and conditions relating to Aungst's compliance with the unleaded gasoline regulations. The contract also provides that Texaco shall have the right to enter the reseller's places of business to obtain samples or conduct such tests as may in Texaco's judgment be reasonably required to confirm that the reseller is complying with its obligations.

The contract, in addition, contains elsewhere in a supplement to the main body of the agreement (Texaco Ex. 6, p. 6) the following provision:

> Product Quality Maintenance. - Purchaser will not allow or permit any Texaco branded products to be sold as Texaco branded products by purchaser or the service stations and outlets selling Texaco products which he operates or serves which are mislabeled, misbranded, or contaminated and without limiting the generality of the foregoing, specifically Purchaser will not sell or allow to be sold Sky Chief Gasoline as Sky Chief Gasoline which has been commingled with other grades of Texaco branded gasoline or any non-Texaco gasoline; nor will Purchaser allow or permit the commingling of leaded with unleaded gasoline; nor will Purchaser allow or permit the sale, under a Texaco label or designation, of gasoline or any other product which is in fact a non-Texaco product or is a grade of Texaco product other than described by the label or designation. Purchaser hereby authorizes Seller

to inspect and sample at Purchaser's facilities or equipment or service stations and outlets he operates or serves, the product at any time and conduct such tests of the product as seller may deem necessary. (Emphasis supplied). 6/

It cannot be presumed that these contractual provisions are meaningless. In the absence of evidence to the contrary, they justify the inference that Texaco does to some degree have the power to control those who distribute its branded unleaded gasoline, and to oversee their actions. The presumption of liability which is placed on Texaco by the regulation, accordingly, is not rebutted by Texaco's avoiding any effort at contractual oversight, which is what Texaco has done here. 7/

6/ Paragraph 15 of the contract makes this provision part of the agreement unless by its terms it is inapplicable. There is nothing on the face of this paragraph which indicates it is not applicable to Aungst. It is not clear whether the provision applies to the right to inspect and take samples to ascertain whether unleaded Texaco-branded gasoline contains excessive amounts of lead. The construction of this provision is not the issue, however, but what efforts may reasonably be required of Texaco in order to fulfill its duty of contractual oversight under the regulation. That duty was imposed to carry out the national policy against air pollution expressed in the Clean Air Act, and it is reasonable, therefore, to require from Texaco, at a minimum, the same quality controls to prevent contamination of unleaded gas, which Texaco imposes to protect the integrity of its branded products.

7/ The regulatory scheme of making the refiner presumptively liable for violations caused by distributors and retailers handling the refiner's branded products was never questioned in Amoco I or Amoco II. Those cases dealt solely with the question of allowing the presumption of liability to be rebutted upon a proper showing that the violation occurred despite the exercise of reasonable efforts by the refiner to prevent it. See Amoco I, supra, 501 F. 2d at 748-49; Amoco II, supra, 343 F. 2d at 274.

Consequently, Texaco cannot rest simply on the absence of a contractual "right of entry" to the premises of the retailers as relieving it of the duty of exercising oversight by verifying the lead content of the gasoline offered by retailers who are served by Aungst. The control inherent in Texaco's position as the original supplier of Texaco's branded gasoline, may be sufficient to remove any objection by the retailers to Texaco's periodically sampling their unleaded gasoline to insure that it did not contain excessive amount of lead. A reasonable sampling program would appear to cause only a minimum amount of disruption to the business of the retailers. It was incumbent therefore, upon Texaco, to show that because of the lack of cooperation by Aungst's customers, it would have been impracticable for Texaco to carry out a reasonable program of periodical sampling of the unleaded gasoline they offered for sale. This Texaco has not done.

Further, sampling of retailers is not the only method of oversight available to Texaco.[8/] Not to be overlooked is Texaco's inspection of Aungst, Inc.'s own procedures for keeping its tank truck and unloading lines free of products containing lead. For the

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8/ As the EPA stated in its explanation of the regulation 39 Fed. Reg. 42359 (Dec. 5, 1974):

> The reference to periodic sampling as an example of reasonable efforts is illustrative and does not require that sampling at any particular reseller facility or retail outlet be conducted at any particular time, so long as resellers and reseller-served retailers are included in a program to insure compliance with contractual undertakings.

reasons already noted, it cannot be assumed from this record that such oversight is outside Texaco's power or would make unreasonable demands on Texaco. Indeed, if anything, there is likely to be less resistance from the reseller in cooperating in a program of reasonable oversight, since it deals directly with Texaco, than from the retailer who does not deal directly. Texaco, however, admittedly did nothing even in verifying the resellers' compliance.

In conclusion, Texaco has not sustained its burden of showing that it made reasonable efforts to prevent violations by those who handle its branded products. It may be true, as Texaco argues, that the control which Texaco has over the person responsible for the violation must be considered in determining what constitutes reasonable efforts. The stipulated facts, however, and the inferences which can reasonably be drawn from them do not support Texaco's claim that it had no control over the negligent party who caused the violations.[9/] Hence, it cannot be assumed that any oversight effort by Texaco to insure compliance with the unleaded gas regulations would have been futile. What the facts do disclose is that Texaco simply did not exercise any control. Texaco, however, cannot rely on its own failure or refusal to act to exculpate it from liability. If it could, the regulatory scheme imposing a duty of contractual oversight on the refiner would be nullified, and such a result is contrary to the general rules of construction. See FTC v. Manager, Retail Credit Co., Miami Branch Office, 515 F. 2d 988, 994 (D.C. Cir. 1975).

9/ As previously noted, supra at n. 1, the stipulated facts are silent on whether the violation was caused by Aungst, or by the retailers.

It is concluded accordingly, that Texaco Inc. has violated Section 211 of the Clean Air Act, as amended, 42 U.S.C.A. 7545, and the regulations issued thereunder, 40 CFR Part 80, as alleged in the complaints issued against Texaco Inc. on April 26, 1978, in Docket Nos. I UNG-355C and I UNG-356C.

The Penalty

In evaluating the appropriate penalty, I am to consider the gravity of the violation, the size of Texaco's business, Texaco's history of compliance with the Act, the action taken by Texaco to remedy the specific violation, and the effect of the proposed penalty on Texaco's ability to continue in business. 40 CFR 80.327 (b), 80.330 (b). I may also consult and rely on the Guidelines for the Assessment of Civil Penalties under the Clean Air Act, Section 211(d), 42 U.S.C.A. 7545 (1978 Supp.), which Guidelines are published in 40 Fed. Reg. 39974 (Aug. 29, 1975), but am not required to follow them. The Guidelines reflect the EPA's judgment of what are suitable penalties for effectively enforcing the Act, and their purpose is to ensure uniformity of penalties for similar violations. They will, accordingly, be followed here.

The civil penalty assessment schedule fixes a tentative penalty based on the gravity of the violation, the size of Texaco's business and Texaco's history of compliance with the Act. Accepting the EPA's statement (brief at 6), that there are no prior violations by Texaco, the penalty proposed for each violation found herein

for a company of Texaco's size is between $6,000 and $7,000, 40 CFR 39976. The exact amount depends upon how much the lead content of the gasoline exceeded the maximum federal standard of 0.05 gram of lead per gallon, 40 CFR 39975. The violations found here of 0.102 gram and 0.136 gram of lead are substantially in excess of the allowable maximum, and $6,500, which is in the middle of the range, seems reasonable.

This tentative penalty may be reduced if a respondent shows that it promptly acted to remedy the violation and the conditions which gave rise to it, or that payment of such amount will adversely affect respondent's ability to continue in business, or that there are special circumstances which justify a reduction in penalty. 40 CFR 39975.

Texaco has come forward with no mitigating facts which justify reducing the penalty. It does not contend that the penalty will cause any disruption of its business, and there is no evidence that Texaco has investigated the violations and has taken measures to keep them from occurring again. Finally, Texaco has not shown any special mitigating circumstances present which should be considered.

I conclude, accordingly, that $13,000 is an appropriate penalty for the two violations found.

FINAL ORDER[10/]

1. Pursuant to Section 211(d) of the Clean Air Act, as amended, 42 U.S.C.A. 7545 (1978 Supp.), and the regulations issued thereunder, 40 CFR 80.301, et seq., a civil penalty of $13,000 is assessed against Texaco, Inc. for the violations of said Act found herein.

2. Payment of the full amount of the penalty assessed shall be made within 60 days of service upon Texaco, Inc., by forwarding to the Regional Hearing Clerk, a cashier's check or certified check in the amount of the penalty payable to the United States of America.

Gerald Harwood
Gerald Harwood
Administrative Law Judge

February 13, 1979

10/ This initial decision shall become the final order of the Regional Administrator unless appealed or reviewed by him in accordance with 40 CFR 80.327(c).