



Legal
1055 West Seventh Street
P.O. Box 2570
Los Angeles, California 90051-0570
Telephone 213 486 1873

John P. Meck
Senior Counsel

10 F.P.
15 dissolved

25

April 16, 1991

VIA TELECOPIER

Mr Gilbert A. Jensen
Senior Deputy District Attorney
Consumer and Environmental Protection Division
Oakland Executive Center
7677 Oakport Street
Suite 400
Oakland, California 92461

Dear Mr. Jensen:

This is in partial response to our meeting of April 8, 1991, and a written confirmation of the information and proposed actions described to you in our phone conversation of April 12, 1991.

As I mentioned to you during our phone conversation, this response is based upon the information provided orally by the representatives from various agencies at the meeting on April 8, 1991. Accordingly, we may not have understood or correctly recorded this information and, possibly as a result, the attached proposed actions may prove to be inappropriate. For this reason, we again request a copy of the written reports that the agencies' representatives read from during our April 8th meeting.

With regard to those station sites where "free product" has been previously identified and where ARCO is responsible for the underground tanks and piping, we have identified ten such sites. Of these ten sites, "free product" recovery has been conducted and is ongoing at seven of them. In Attachment "A" we are proposing additional steps that we can take to recover any remaining "free product"; subject, of course, to agency approvals and the agency's determination that additional recovery is needed at this time.

At one of the remaining three sites (Service Station Number 2112), "free product" was removed after its discovery in September, 1990 by a vacuum truck. We submitted a workplan to the Alameda County Health Department on January 4, 1991 for conducting additional product removal. We are awaiting approval of this workplan. At another site (Service Station Number 2035), ARCO was

notified March 20, 1991 of the discovery of free product below grade between two service station properties. We immediately initiated efforts to prepare a workplan to assess site conditions and allow free product recovery. The workplan will be submitted to the appropriate agencies by April 26, 1991. Finally, at Service Station Number 5387, ARCO was notified March 19, 1991 of the need to prepare a workplan for this site by April 30, 1991. This will be done by that date.

With regard to those station sites where there is no free product, we have identified 15 such sites. We will continue to move forward on obtaining approvals for workplans and assessments and initiate remediation according to agreed upon schedules. For those sites where we having ongoing remediation, we will continue implementing approved remediation plans. Proposed further additional actions, subject to agency approvals, will be discussed at our May 10, 1991 meeting.

At our April 8th meeting, agency representatives identified eleven stations which are now or were formerly ARCO branded stations. Of these eleven stations, our records indicate that five are currently under contract to ARCO as "contract dealer" franchisees (that is, franchisees who do not lease their sites from ARCO) and one is a distributor's station (that is, ARCO has no contract agreement with the station's dealer, only with the distributor). We have no current information on the other five station sites as to who owns or operates them or under which brand name, if any, they are operated. (See Attachment "B" for a listing of these stations according to address and category.)

As to the five stations currently under a contract franchise agreement with ARCO and the distributor's station, both federal law and our franchise agreements limit what actions ARCO can take with regard to their operations.

Under the "contract dealer" type of franchise agreements, we do not lease or own the property at these stations; we do not operate the stations; and we do not own or operate the underground tanks or dispensers.

The Petroleum Marketing Practices Act, 15 U.S.C. Sections 2801-2806, limits our right to terminate both types of franchise agreements to enumerated categories of breaches.

During this next week, we will send written notification to these five contract dealers and the distributor informing them of the reported deficiencies, as we understand them, identified in our April 8th meeting, and instructing them to contact the appropriate agency within three days and to immediately implement corrective action, if needed. We will contact these agencies within five days to determine if the contract dealer and the distributor have contacted the agency. If no contact has been made, we will send a second letter to that contract dealer or distributor, indicating that the agency informs us that the dealer or distributor, as the case may be, has not contacted the agency and that ARCO now considers the dealer or distributor to be in default of the franchise agreement. Once the dealer has contacted the agency, we will periodically monitor the dealer's progress in bringing the station into compliance by requesting a status report (possibly once a quarter) from the appropriate agency.

At our meeting, agency representatives mentioned that pump dispenser filters were being damaged when customers drove off with dispenser hoses still inserted in the fill pipe of their automobiles. This damage to the filters was reported as causing greater loss of product than would occur if the filters were not installed. We subsequently contacted the manufacturer of the pump dispenser, ARCO's retail engineering staff, and pump and tank contractors. Our investigation has provided additional information for understanding the nature and magnitude of the problem and identified possible preventive measures.

First, the filters are installed for quality control purposes and we have been informed that most major oil companies intend, if they have not done so already, to install similar filters on pump dispensers at their stations.

evidence? Next, we have reports on eight such incidents occurring in the last four years (1987-1990) in Alameda County where the filter was damaged. *none occurred in 1987 or 1988?* Of these eight, our records indicate all were reported to local agencies, and immediate cleanup actions taken. Also, we stated in six of these reports that no further remedial action was needed. We received no further comment from the agencies on these reports or this type of incident until the April 8th meeting. *wrong!*

The manufacturer has suggested that damage to the filter could be possibly avoided by removing an "in-line check valve" from the

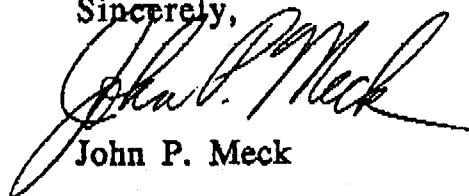
dispenser. This action would substantially reduce pressure surges caused when a customer drives off with the dispenser hose still in the automobile's fill pipe.

As a follow-up to this suggestion, we initiated tests on April 12 to determine the feasibility of removing the check valve without compromising safety. We expect this testing to be completed by April 22. If the test verifies the manufacturer's claims, we will remove the check valves from all ARCO owned dispensers in Alameda County which will provide us a basis for a systemwide test. We will also advise our contract dealers and distributors, where appropriate, of this action by May 10, 1991. (See: Attachment "C" for a summary of this program.)

Finally, at our next meeting scheduled for May 10, 1991, at 10 a.m., we intend to provide a progress report on the actions described in this letter and its attachment. Next, we will at least provide an initial response as to corrective actions taken prior to April 8 and any future actions needed as to other items mentioned at the April 8th meeting. For example, we had met with representatives from the City of Fremont approximately a year ago and thought that we had previously addressed all of the problems mentioned at our recent meeting. We have now received final "Hazardous Materials Management Plan" permits from the City of Fremont on all five service stations located in the city. There are also a number of items mentioned at our meeting where we disagree with the agency's determination of deficiency. We will provide you with a listing of those items and an explanation of why corrective action is not needed.

If you have any questions, please call me. However, I will be on vacation from April 18 until April 29, 1991. If during this period you need any kind of information, please contact Ted Robinson of ARCO's Legal Department at (213) 486-2435.

Sincerely,



John P. Meck