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3315 Almaden Expressway, Suite 34
San Jose, CA 95118
Phone: (408) 264-7723
FAX: (408) 264-2435

TRANSMITTAL

3756

TO: Mr. Richard Gilcrease
Drake Builders
5200 Panama Avenue
Richmond, California 94804

DATE: January 26, 1993
PROJECT NUMBER: 60026.14
SUBJECT: ARCO Station 276, 10600
MacArthur Blvd., Oakland, California.

FROM: Joel Coffman
TITLE: Project Geologist

WE ARE SENDING YOU:

COPIES	DATED	NO.	DESCRIPTION
1	1/25/93	60026.14	Request for Signed Acknowledgement of Access to Install Six Vapor Extraction Wells in the Foothill Shopping Center Parking Lot and to Connect the Wells, by Trenching and Piping, to the Existing Soil Vapor Extraction System located at the above subject site.

THESE ARE TRANSMITTED as checked below:

- For review and comment Approved as submitted Resubmit ___ copies for approval
- As requested Approved as noted Submit ___ copies for distribution
- For approval Return for corrections Return ___ corrected prints
- For your files

REMARKS: cc: Mr. Michael Whelan, ARCO Products Company
Mr. Chris Winsor, ARCO Products Company
Mr. John Meck, ARCO Legal Department
Mr. Barney Chan, Alameda County Health Care Services Agency
Mr. Richard Hiatt, RWQCB, San Francisco Bay Region

Copies: 1 to RESNA project file no. 60026.14

3315 Almaden Expressway, Suite 34
San Jose, CA 95118
Phone: (408) 264-7723
FAX: (408) 264-2435

January 25, 1993
0125RGIL
60026.14

Mr. Richard Gilcrease
Drake Builders
5200 Panama Avenue
Richmond, California 94804

Subject: Request for Signed Acknowledgement of Access to Install Six Vapor Extraction Wells in the Foothill Square Shopping Center Parking Lot and to Connect the Wells, by Trenching and Piping, to the Existing Soil Vapor Extraction System located at ARCO Station 276, 10600 MacArthur Boulevard, Oakland, California.

Dear Mr. Richard Gilcrease:

On behalf of ARCO Products Company (ARCO), RESNA Industries Inc. (RESNA) will be adding six vapor extraction wells to the offsite portion (located in the parking lot of Foothill Square Shopping Center at 10700 MacArthur Boulevard, Oakland, California) of the vapor extraction system located at ARCO Station 276, 10600 MacArthur Boulevard, Oakland, California. ARCO is being required by the Alameda County Health Care Services Agency (ACHCSA) and the California Regional Water Quality Control Board (CRWQCB) to perform this work as soon as possible.

RESNA will be installing these six (6) vapor extraction wells to enhance the existing vapor extraction probes now located on the Foothill Square Shopping Center parking lot. The approximate location of these wells is shown on the attached Plate A. In conjunction with the well installations, the wells will be connected together and to the vapor extraction system with piping by trenching between the wells and from the wells to the system to install and connect the pipe. Upon placing the pipe in the trenches, the trenches will be backfilled, compacted, asphalted, and slurry sealed. Where appropriate, stripes will be painted on parking spaces which are now marked. Flush mounted, traffic rated vault boxes, similar to those recently installed on the ARCO site will be used on top of the wells to allow access to the wells for monitoring purposes.

Request for Access
ARCO Station 276, Oakland, California

January 25, 1993
60026.14

This work will require fencing off the area for a time interval which may extend to 4 weeks duration. We will make every effort not to block traffic and attempt to limit access problems associated with this work.

The proposed work described is subject to the previously executed access agreements between ARCO and Drake Builders (June, 1989 and May, 1992). Copies of these agreements are included for your reference. These License Agreements will still be considered in-effect for this additional phase of work we propose to do on your property. ARCO requests for you to sign the two copies of this acknowledgement and return one of them to us in the stamped, self-addressed envelope for our records, keeping the other signed original for your records. At least two weeks prior to commencement of the well installations and piping and trenching activities, written notification will be sent to you with our estimated schedule to perform the work.

If you have any questions or comments regarding this matter, please call us at (408) 264-7723 or Mr. Michael Whelan of ARCO at (415) 571-2449.

Sincerely,
RESNA Industries Inc.



Joel Coffman
Project Geologist

Attachments: Plate A
License Agreements (June 1989 and May 1992)

cc: Mr. Barney Chan, ACHCSA
Mr. Richard Hiatt, RWQCB
Mr. Michael Whelan, ARCO Products Company
Mr. Chris Winsor, ARCO Products Company
Mr. John Meck, ARCO Legal

Enclosures: Acknowledgement Between Mr. Richard Gilcrease of Drake Builders
and ARCO Products Company (2 copies)

ARCO Products Company
2000 Alameda de las Pulgas
Mailing Address: Box 5811
San Mateo, California 94402
Telephone 415 571 2400



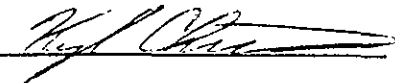
**ACKNOWLEDGEMENT
BETWEEN MR. RICHARD GILCREASE OF DRAKE
BUILDERS AND ARCO PRODUCTS COMPANY**

For access to install six (6) Vapor Extraction Wells on the Foothill Square Shopping Center Parking Lot, located at 10700 MacArthur Boulevard, Oakland, California, and to trench and connect the wells with piping to the existing vapor extraction system at ARCO Station 276, 10600 MacArthur Boulevard, Oakland, California as described in the letter from RESNA Industries Inc. (January 20, 1993) and as agreed in the previously executed license agreements (June 1989 and May 1992) between ARCO and Drake Builders.

Agreed to:

ARCO Products Company

Mr. Richard Gilcrease of Drake Builders

By: 

By: _____

Title: ENVIRONMENTAL ENGINEER

Title: _____

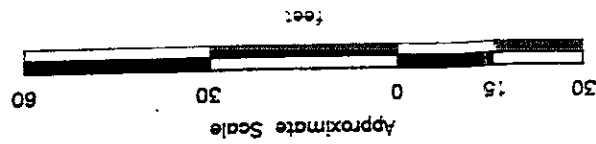
Date: 1/26/93

Date: _____

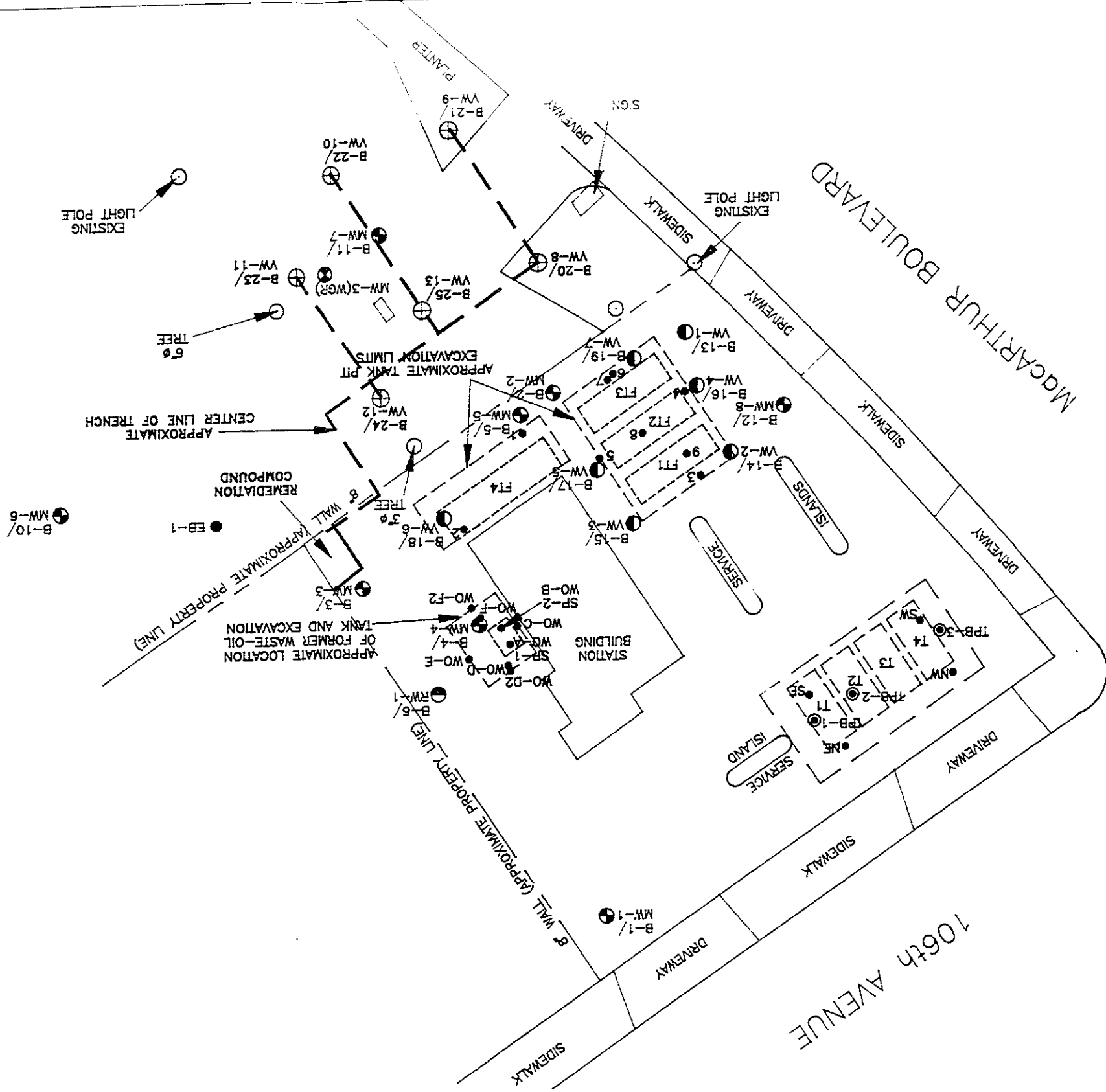
PROPOSED OFFSITE BORING/WELL LOCATIONS

PLATE
A

Source: Surveyed by John E. Koehn, Licensed Land Surveyor.



- EXPLANATION**
- ⊕ B-25/
VW-13 = Proposed vapor well
 - ⊕ B-12/
MW-8 = Groundwater monitoring well (RESNA, 1989 and 1992)
 - ⊕ B-19/
VW-7 = Vapor well (RESNA, 1982)
 - ⊕ B-7/
RW-1 = Recovery well (RESNA, 1991)
 - ⊕ TPB-3 = Boring in proposed new tank pit (RESNA, 1990)
 - NW = New tank pit excavation bottom sample (RESNA, 1990)
 - 9 = Former tank pit sample (S7-TP1SW-1 through -9; RESNA, 1990)
 - ⊗ MW-3(WGR) = Groundwater monitoring well (WGR, 1988)
 - EB-1 = Exploratory boring (KA, 1988)
 - SP-2 = Former waste-oil tank pit excavation bottom and sidewall sample (PEG, 1988)
 - WO-F = Former waste-oil tank pit excavation
 - ⊔ T4 = Existing underground storage tanks
 - ⊔ FT4 = Former underground storage tanks
 - = Trenches for connecting wells together with piping



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**LICENSE AGREEMENT
BETWEEN DRAKE BUILDERS
AND ARCO PRODUCTS COMPANY**

This license Agreement is made on the 11th day of May, 1992, between Drake Builders, private owner, hereinafter referred to as "licensor" and ARCO Products Company, a division of Atlantic Richfield Company, hereinafter referred to as "licensee".

1. RECITALS

- 1.1 Licensor owns certain real property (the "Property") at 10700 MacArthur Boulevard, Oakland, in the state of California.
- 1.2 Licensee desires to drill on a portion of the Property, two (2) groundwater wells as depicted on Plate 2, attached hereto and made part hereof.
- 1.3 The parties desire to enter into this License Agreement to allow licensee to install said groundwater wells on the Property.
- 1.4 Neither this License Agreement nor any of the terms hereof shall be construed as an admission of liability by Licensee for any contamination, alleged or otherwise, on the licensed area of any adjoining property.

2. AGREEMENT

Now, therefore, in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby covenant and agree to and with each other as follows.

3. TERMS

- 3.1 Licensee may drill, use and backfill at its sole cost and expense, two (2) groundwater wells on the Property located at 10700 MacArthur Boulevard, Oakland, California.
- 3.2 Said groundwater wells shall be completed as shown on Plate 3 attached hereto and made part hereof.

- 3.3 Licensee, upon prior notification to licensor, may enter the Property to monitor and sample the two (2) groundwater wells.
- 3.4 Licensee agrees not to permit any liens to stand against the Property for work done or materials furnished to licensee, and licensee agrees to indemnify and hold licensor harmless for same.
- 3.5 If the surface of the licensed are and/or the surface of licensor's adjacent real property and/or improvements thereon shall be disturbed by the emplacement or the backfill of licensee's groundwater wells, then said surface and/or improvements shall be promptly restored by licensee to their condition just prior to such disturbance.
- 3.6 Licensee shall, after completion, backfill said borings pursuant to this License Agreement, or after the groundwater wells are no longer useful to the investigation, destroy the groundwater wells according to the standards set forth by the appropriate State agency.
- 3.7 Licensee agrees to indemnify, defend, and save licensor harmless from all liability, damage, expense, causes of action, suits, claims, or judgements resulting from injuries to person or damage to property on the licensed area or on adjoining streets and sidewalks which arise out of the act, failure to act, or negligence of licensee, its agents, employees, invitees, or guests in performing work under this License Agreement.
- 3.8 This License Agreement shall not constitute a deed or a grant of easement and shall not be deemed irrevocable or an easement by virtue of the work performed under or by reason of this license.
- 3.9 This License Agreement may be terminated by either party upon thirty (30) days prior written notice.

In witness whereof, the parties hereto have executed this License Agreement as of the day and year first above written.

ARCO Products Company

By: 

Title: Environment

Date: 5-27-92

Drake Builders
Mr. Richard Gilcrease

By: 

Title: General Manager

Date: 14 May 1992

RESNA

ACCESS AGREEMENT

THIS ACCESS AGREEMENT ("Agreement") is made and entered into effective this first day of June, 1989, by and between ATLANTIC RICHFIELD COMPANY, a Delaware corporation, through its Division, ARCO Products Company (Atlantic Richfield Company and ARCO Products Company being hereinafter collectively referred to as "ARCO"), and Drake Builders, a California corporation (hereinafter referred to as "Drake Builders").

WHEREAS, Drake Builders is the owner of certain shopping center premises, also identified as the Foothill Square Shopping Center, located at 10700 MacArthur Blvd., Oakland, California (hereinafter referred to as the "Shopping Center Premises"); and

WHEREAS, such Shopping Center Premises are located adjacent to ARCO service station No. 276 (hereinafter referred to as the "Service Station"); and

AL
Q
Station
WHEREAS, testing on or immediately adjacent to the Service ~~State~~ premises has indicated the existence of certain contamination, the precise nature, source and extent of which has not yet been defined; and

WHEREAS, Drake builders has requested that ARCO conduct certain remedial actions with respect to the Shopping Center Premises in question "to the extent testing indicates that the adjacent ARCO station is in fact the source of the shopping center

contamination" alleged to be present by Drake Builders on or adjacent to the Shopping Center Premises in the vicinity of the Service Station; and

WHEREAS, the parties recognize that in order to properly and fully evaluate this matter, investigation and testing on the Shopping Center Premises is required; and

WHEREAS, it is the desire and intent of the parties to this Agreement to reach a consensus as to the proper direction in which the interested parties should proceed in seeking to resolve the assessment and remediation of such contamination as may exist ~~the~~ ^{with} respect to the Service Station and that portion of the Shopping Center Premises as is adjacent to the Service Station;

NOW THEREFORE, in consideration of the premises, and the mutual covenants and obligations set forth herein, the parties hereto agree as follows:

1. Basis of Agreement.

(a) It is the basic purpose of this Agreement to provide ARCO with access to the Shopping Center Premises in question, so as to afford ARCO the opportunity to conduct such testing and investigation as to actual or alleged contamination on the Shopping Center Premises as ARCO may deem prudent under the circumstances. In providing for such access, and executing this Agreement, the parties expressly represent and agree that the nature, source and extent of contamination, if any, such as may exist at or in the vicinity of the Service Station or the Shopping Center Premises is a complex matter, and has not yet been resolved. Accordingly,

neither the execution of this Agreement, nor any provision thereof, nor any conducting or performance of any activity or operation under and/or in connection with this Agreement, shall in any manner constitute, be interpreted or construed as, or be used as evidence of, any admission or assumption of any liability by or on behalf of any party hereto, whether under or in connection with any federal, state or local law or regulation, or otherwise.

(b) Upon and after execution of this Agreement by the parties hereto, Drake Builders shall provide ARCO or its consultants or contractors such access to the Shopping Center Premises, including any portion thereof, as may reasonably be requested by ARCO or its consultants or contractors to accomplish such environmental, remedial or removal activity, investigation, sampling, testing or monitoring as ARCO deems reasonably necessary or appropriate. ARCO or its consultants or contractors may install, inspect, maintain and operate such equipment and conduct such investigation, sampling, drilling, monitoring and other activities as ARCO deems reasonably necessary or appropriate. ARCO shall exert its best efforts to diligently conduct such activities. ARCO's rights under this Agreement shall terminate upon mutual agreement of the parties hereto, or upon sooner receipt by ARCO of written notification from the governmental agency having jurisdiction of the Service Station or Shopping Center Premises that no remediation or further remediation with respect to the Service Station or Shopping Center Premises is required. Within thirty (30) days after termination of such rights, and to the extent practicable, ARCO shall remove all equipment installed by ARCO on the Shopping Center Premises, except as may be agreed

upon by the parties, except as may be required by law, or except as may be specified by any governmental agency having jurisdiction over the matter.

(c) Subject to the provisions of subparagraph 2(c) of this Agreement, the cost of any investigation, sampling, drilling, monitoring, and other similar activities conducted by or on behalf of ARCO under or in connection with this Agreement shall be borne by ARCO. Costs of remediation activities, if any, such as may be conducted with respect to the Service Station or Shopping Center Premises are without the scope of this Agreement, and are subject to further negotiation by the parties hereto.

(d) To the extent practicable, all activities conducted by or on behalf of ARCO on the Shopping Center Premises shall be conducted in such a manner such as will not cause unreasonable interference with Drake Builders or its lessees' use of the Shopping Center Premises. Neither Drake Builders, nor any lessee thereof, nor any other person claiming under or through Drake Builders, shall receive any compensation from ARCO as a result of or in connection with the execution of this Agreement, the granting of access to ARCO, or the conducting in accordance with this Agreement of any testing activity or operation by or on behalf of ARCO.

2. Remediation.

(a) To the extent it is demonstrated through proper investigation and testing that the Service Station is in fact the sole source of contamination at or in the vicinity of that portion of the Shopping Center Premises as is immediately adjacent to the

Service Station, ARCO will, to such extent, and at ARCO's cost, in a safe and workmanlike manner undertake the conducting of remediation of such contamination as required by law, or as required by and acceptable to such environmental agency as has jurisdiction over the matter. By executing this Agreement, ARCO does not covenant nor agree to the performance of any remediation other than as set ~~both~~ ^{set forth} above in this subparagraph 2(a), and the responsibility for any and all remediation other than as set forth above in this subparagraph 2(a) is a matter for further negotiation between the parties to this Agreement.

(b) Whether or not expressly responsible under the provisions of this Agreement for the conducting of any particular remediation in question, each party hereto reserves, and shall have, the right to challenge as unreasonable, arbitrary, or otherwise not in accordance with law, any order, requirement, or plan of remediation proposed by any governmental agency or authority whatsoever.

(c) By executing this Agreement, or conducting any activity thereunder, no party hereto waives any rights that it may have against any person or entity in connection with any contamination at or in the vicinity of the Service Station or the Shopping Center Premises, all such rights being expressly reserved by each party.

3. Records and Reports.

In order to further the purposes of this Agreement, Drake Builders covenants and agrees to promptly provide to ARCO, or its contractors or consultants, such records relating to past or

present activities conducted on or associated with the Shopping Center Premises in question as may be required in order to adequately perform any inspection, investigation, or other activity conducted by or on behalf of ARCO under or in connection with this Agreement. Such records shall be made available to ARCO (or its contractors or its consultants) for review and copying, without charge to ARCO, except that the cost of reproduction of such records shall be borne by ARCO. Drake Builders and ARCO also covenant and agree to furnish to each other copies of such written reports of investigation or testing concerning alleged contamination at or adjacent to the Service Station or Shopping Center Premises such as have been furnished or will be furnished to a federal, state or local environmental agency by or on behalf of Drake Builders or ARCO, respectively.

4. Entirety.

ARCO and Drake Builders covenant and agree that ~~the~~ ^{with [signature]} respect to the subject matter of this Agreement, no verbal agreements or understandings have been entered into or are effective, and that this writing is intended by ARCO and Drake builders as a final expression of their agreement, except as expressly provided in this Agreement. No change or modification of this Agreement shall be effective or become effective unless it is in writing and signed by the duly authorized representatives of both ARCO and Drake Builders, and consented to by Jay-Phares Corporation, which shall not unreasonably be withheld or delayed. The parties to this Agreement have been represented by counsel of their choosing, and have been fully advised as to the legal effect of

this agreement. Jay-Phares Corporation and its principals have not provided legal advice to Drake Builders in connection with this Agreement.

5. Severability.

If any term, covenant, condition or provision of this agreement, or the application thereof to any person or circumstance, shall be held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

6. Successors and Assigns.

(a) Except as otherwise provided in this Agreement, ARCO shall not assign its rights nor delegate its duties or obligations hereunder without the prior written consent of both parties hereto, which consent, however, shall not unreasonably be withheld or delayed.

(b) The provisions of this Agreement pertaining to Drake Builders, including, without limitation, all covenants and conditions pertaining to Drake Builders, shall also inure to and be binding upon Jay-Phares Corporation, if and as to the extent that such latter corporation purchases or otherwise acquires any interest in, as to, or affecting the Shopping Center Premises in question, or any portion of such Shopping Center Premises.

7. Notices.

Notices, if any under this Agreement shall be deemed to have been sufficiently given when delivered in person, or when actually received (whether by telex, telecopy, or otherwise) or when mailed by registered or certified mail, postage prepaid, return receipt requested, to the address of the respective party below:

To ARCO: Mr. H. S. Winsor
ARCO Products Company
1055 West 7th Street
P.O. Box 2570
Los Angeles, CA 90051-0570
(with copy to Mr. T. A. Robinson -
same address)

To: Drake Builders
5200 Panama Avenue
Richmond, CA 94804
ATTN:
Mr. Richard Gilcrease
(with copy to :
Jay-Phares Corporation
300 Lakeside Drive
Suite 1880
Oakland, CA 94612
ATTN:
Mr. Hugh K. Phares, III

8. Titles of Articles.

Titles of articles of this Agreement are for the purpose of general identification only, and shall not be deemed or inter-

*****CONTINUED ON PAGE 9*****

preted so as to restrict or limit the actual provisions contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto, by and through their authorized representatives, have executed this Agreement effective as of the date first above written.


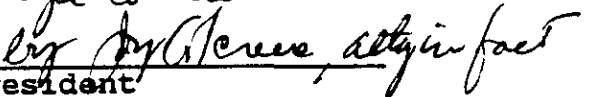
ATLANTIC RICHFIELD COMPANY,
ARCO PRODUCTS COMPANY

By: 

Attest:

DRAKE BUILDERS
(a California Corporation)

By: 
Its Secretary

By: 
by  atty in fact
Its President


ACCEPTED AND AGREED TO:

Attest:

JAY-PHARES CORPORATION
(As Optionee)

Date: June 7, 1989

By: 
Hugh K. Phares, III
President

By: 
John R. Jay
Secretary