

APPENDIX A

Consent Decree/Memorandum of Understanding

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 2 Environment and Natural Resources Division
 ROBERT D. BROOK
 3 Environmental Enforcement Section
 Environment and Natural Resources Division
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 Assistant U.S. Attorney
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 Los Angeles, California 90012
 10 (213) 897-5709

BY: _____
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11 Attorneys for Plaintiff, United States of America

12 Additional Listing of Attorneys is on the Following Page

13 UNITED STATES DISTRICT COURT
 14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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16 _____
 17 UNITED STATES OF AMERICA, the)
 18 STATE OF CALIFORNIA Acting by)
 and through the Department of)
 19 Fish and Game, and the California)
 Regional Water Quality Control)
 20 Control Board, Los Angeles)
 Region and THE PEOPLE OF)
 21 THE STATE OF CALIFORNIA in and)
 for the County of Los Angeles,)
 22)
 Plaintiffs,)
 23)
 v.)
 24)
 ARCO PIPE LINE COMPANY,)
 25)
 Defendant.)
 26 _____

Civil Action No. 97 - 0351 JMI

AGREEMENT AND
 CONSENT DECREE

(CW

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of the State of California
2 CHARLES W. GETZ, IV
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7 and Game and the California Regional Water Quality Control Board, Los Angeles Region

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12 (213) 974-6818

13 Attorneys for Plaintiff, the People of the State of California in and for the County of Los
14 Angeles

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16 ARCO Pipe Line Company
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17 RONALD C. PETERSON
18 STEVEN R. TEKOSKY
Heller, Ehrman, White & McAuliffe
19 601 So. Figueroa Street, 40th Floor
Los Angeles, California 90017

20 Attorneys for Defendant, ARCO Pipe Line Company
21

22 This Agreement and Consent Decree (the "Decree"), is entered into by the United States
23 of America, by and through the United States Department of Justice, on behalf of the United
24 States Department of the Interior, United States Fish and Wildlife Service ("United States");
25 the State of California, by and through the California Department of Fish and Game, Office of
26 Oil Spill Prevention and Response (hereinafter the "CDFG/OSPR") and the Regional Water
27 Quality Control Board ("RWQCB"), Los Angeles Region (the CDFG/OSPR and the RWQCB
28 are sometimes hereinafter collectively referred to as "State Agencies"); the People of the State

1 of California by and through the Honorable Gilbert Garcetti, District Attorney for the County
2 of Los Angeles (the "People"); ARCO Pipe Line Company ("APL" or "Defendant"), a
3 Delaware corporation (formerly known as Four Corners Pipe Line Company); and Atlantic
4 Richfield Company ("ARCO"), a Delaware corporation. The United States, the State Agencies
5 and the People are sometimes hereinafter referred to as "Plaintiffs."

6 INTRODUCTION

7 1. On January 17, 1994, an oil pipeline owned by ARCO Pipe Line
8 Company ("Line #1") running through Los Angeles County ruptured in at least eight (8)
9 separate locations during and following a magnitude 6.8 earthquake in the Los Angeles area
10 (the "Northridge Earthquake"). The pipeline ruptures resulted in the discharge of crude oil
11 onto nearby lands and in some cases, water. Plaintiffs have alleged the following:

12 (i) The largest oil spill occurred at APL's Newhall Pump Station near the
13 city of Santa Clarita, Los Angeles. Approximately 190,000 gallons of crude oil were
14 spilled. A portion of the spilled oil flowed from the pipeline break along a roadway,
15 where it entered a storm drain and then an open drainage ditch. The drainage ditch
16 empties into the Santa Clara River, and the oil flowed from the drainage ditch into the
17 river. The oil flowed downstream approximately 16 miles, where a dam was
18 constructed to halt further spread of the oil. Cleanup crews removed oiled vegetation
19 along the riparian corridor. Approximately 100 acres of woody and herbaceous
20 vegetation were impacted by the oil and cleanup operations as well as approximately
21 150 acres of river sediments.

22 The discharge and subsequent cleanup operations resulted in injury to fish,
23 including the arroyo chub and the federally endangered unarmored three-spine
24 stickleback, injury to a number of bird and other wildlife species, and injury to riparian
25 vegetation including critical habitat for the federally endangered least Bell's vireo.

26 (ii) A second spill site was located at Wolfskill Street near Amboy Road, in
27 the city of San Fernando. A portion of crude oil from the Wolfskill Street site entered a
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1 storm drain and reached the Los Angeles River. This resulted in staining of
2 approximately 15 miles of concrete and unpaved channel.

3 (iii) A third spill site was located at O'Melvany Street near San Fernando
4 Mission Road, city of San Fernando. The Line #1 ruptures at Wolfskill Street and
5 O'Melvany Street resulted in the release of approximately 24,000 gallons of crude oil.

6 (iv) A fourth spill site was located at the Department of Water and Power
7 Training Facility. Approximately 126 gallons of crude oil were released.

8 (v) A fifth spill site was located west of Sierra Highway at S12 T3n R16W.
9 The Line #1 rupture resulted in the release of approximately 1,260 gallons of crude oil.
10 Because of the danger posed by gas in the area from a natural gas pipeline rupture,
11 response to the crude oil spill and repair of the oil pipeline was delayed until the gas line
12 was repaired.

13 (vi) A sixth spill site was located at Christmas Tree Farm in the city of Santa
14 Clarita, Los Angeles County, off of McBean Parkway. The Line #1 rupture resulted in
15 a release of approximately 1,470 gallons of crude oil. None of the oil entered the nearby
16 Santa Clara River.

17 (vii) A seventh spill site was located at the Valencia Golf Course, west of
18 McBean Parkway, north of Valencia Boulevard, south of Magic Mountain Parkway, and
19 east of I-5. The Line #1 rupture resulted in a release of approximately 210 gallons of
20 crude oil.

21 (viii) An eighth spill site was located at Posey Canyon in Los Angeles County.
22 The Line #1 rupture resulted in a release of approximately 21,000 gallons of crude.
23 The crude oil traveled one quarter to one half mile along a stream to an earthen dam. In
24 addition, permanent and absorbent booms were deployed to stop further flow of the oil
25 downstream.

26 2. On January 22, 1994, another earthquake-related oil spill occurred when another
27 pipeline owned by APL ("Line #63") ruptured at Grasshopper Canyon, west of Castaic Lake.
28 Plaintiffs have alleged that approximately 67,200 gallons of crude oil were spilled covering

1 nearly an acre of coastal sage scrub and scattered patches of non-native grassland such as wild
2 oat and brome grass.

3 3. On April 6, 1993, APL's Line 63 ruptured. The United States and State
4 Agencies have alleged that approximately 260,000 gallons of crude oil were released into
5 Grapevine Creek; on April 7, 1993, an undetermined amount of cleaner containing sodium
6 hydroxide was allowed to reach Grapevine Creek; and on April 19, 1993, a quantity of the
7 released crude oil, which had been impounded behind an emergency dam, overflowed into
8 Grapevine Creek (collectively the "Grapevine Incident").

9 With respect to each spill, the response and cleanup of the crude oil included excavating
10 soil, repairing the pipeline, back-filling and, where appropriate, grading the spill site.

11 The United States by and through its designated Trustee, the U.S. Department of
12 Interior, the U.S. Fish and Wildlife Service ("Federal Trustee") and the State of California by
13 and through its designated Trustee, CDFG/OSPR ("State Trustee"), represent that they are the
14 sole co-equal joint Trustees over some or all of the Natural Resources affected by the oil spills.
15 The United States through its Federal Trustee and the State Trustee (collectively, the "Natural
16 Resource Trustees") propose to restore Natural Resources injured as a result of the spills
17 identified in paragraphs 1 and 2 above, the Earthquake-Related Oil Spills. The Natural
18 Resource Trustees deem the payment of natural resource damages to be an amount reasonable
19 and necessary to restore these natural resources.

20 The Parties desire to avoid the costs and risks of litigation and believe that resolution of
21 this dispute without litigation to be in the best interests of the public. The Parties recognize
22 that this Decree is a settlement of a contested matter.

23 **NOW, THEREFORE**, it is hereby ORDERED, ADJUDGED, and DECREED as
24 follows:

25 JURISDICTION

26 4. This Court has jurisdiction over the subject matter and over the Parties to this
27 action pursuant to 28 U.S.C. §§ 1331, 1345, and 1367, 33 U.S.C. § 2717, and 16 U.S.C.
28 § 1540. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). The Court has

1 supplemental jurisdiction over claims stated in the Complaint pursuant to State law. The
2 Complaint states claims upon which relief may be granted.

3 SETTLING PARTIES

4 5. This Decree shall apply to and be binding upon and inure to the benefit of the
5 United States, the State Agencies, the People, APL, and ARCO, and as applicable, their
6 present and former officers, directors, employees, agents, representatives and their successors.

7 DEFINITIONS

8 6. Whenever the following terms are used in this Decree, they shall have the
9 following meanings:

10 (a) "Designee" means any entity approved by the Administrator of the Office
11 of Oil Spill Prevention and Response or the U.S. Fish and Wildlife Service that is
12 authorized to engage in the restoration, monitoring, and oversight activities required to
13 implement this agreement.

14 (b) "Earthquake-Related Oil Spills" means the discharges of crude oil from
15 the ruptures in APL's pipeline (Line #1) in at least eight separate locations in and
16 around Los Angeles County on January 17, 1994 during the Northridge Earthquake, as
17 well as the earthquake related January 22, 1994 discharge of crude oil from a separate
18 APL pipeline (Line #63) in Grasshopper Canyon, California.

19 (c) "Final Judgment" means: (i) if no appeal is filed, the expiration date of
20 the time for the filing or noticing of any appeal from the Decree, i.e., thirty (30) days
21 after entry of the Decree; or (ii) the date of final affirmance on any appeal of the
22 Decree, or the expiration of the time for a petition for a writ of certiorari to review the
23 Decree and, if certiorari be granted, the date of final affirmance of the Decree following
24 review pursuant to that grant; or (iii) the date of final dismissal of any appeal of the
25 Decree or the final dismissal of any proceeding on certiorari to review the Decree.

26 (d) "Natural Resource Damages" means civil compensatory and remedial
27 relief recoverable by the Natural Resource Trustees, for injury to, destruction of, or loss
28 of any or all Natural Resources resulting from the oil spills, including: (i) costs of

1 damage assessment; (ii) compensation for loss, injury, impairment, damage or
2 destruction of Natural Resources, whether temporary or permanent, or for loss of use
3 value (active and passive), consumer surplus, economic rent, or any other similar
4 value of Natural Resources; and (iii) costs of restoration, rehabilitation, or replacement
5 of injured Natural Resources or the acquisition of equivalent resources.

6 (e) "Natural Resource" and "Natural Resources" mean land, fish, wildlife,
7 biota, air, water, ground water, drinking water supplies, and other such resources
8 belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by
9 the United States and/or the State of California and its agencies.

10 (f) "Natural Resource Trustees" or "Trustees" means those federal and state
11 agencies designated or authorized pursuant to the Oil Pollution Act of 1990, and/or state
12 law to act on behalf of the public as Trustees for the natural resources belonging to,
13 managed by, controlled by or appertaining to the United States or State of California.
14 Specifically, as used in this Decree the Trustees are the United States Department of the
15 Interior, acting through the U.S. Fish and Wildlife Service, and the California
16 Department of Fish and Game.

17 (g) "Response Costs" mean response and/or cleanup costs incurred by the
18 Trustees or other government agencies in responding to the oil spills, including but not
19 limited to actions taken to remove and cleanup the spilled oil.

20 (h) "Restore" or "Restoration" mean any action to restore to its pre-spill
21 condition any Natural Resource injured, lost, or destroyed as a result of the oil spills
22 and the services provided by that Natural Resource, or any action which restores,
23 replaces, rehabilitates, or acquires the equivalent of, the injured, lost, or destroyed
24 Natural Resource and affected services.

25 (i) "Party" or "Parties" mean APL, ARCO, the United States, including its
26 departments, agencies, and subdivisions, the State Agencies and the People.

27 (j) "Settlers" mean APL and ARCO.

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1 chargeable to Settlers in any manner. To the extent, however, there are any charges in excess
2 of the interest earned, such charges shall borne by Settlers.

3 9. Within fifteen (15) days after Final Judgment, Settlers shall instruct the Escrow
4 Holder to distribute payment to each of the entities identified in subparts (a) through (f) of this
5 paragraph [9] in the amount and manner specified. All payments under this paragraph shall be
6 accompanied by correspondence referencing this Decree. Notice of each payment shall be
7 given to the United States and the State Agencies in accordance with paragraph [19] (Notices)
8 by sending a copy of the correspondence that accompanies each tendered payment.

9 (a) \$7,100,000 (plus a prorata share of accrued interest, less escrow fees,
10 service fees or other charges levied pursuant to paragraph [8] above), by certified check
11 to the Department of the Interior, Fish and Wildlife Service, for Natural Resource
12 Damages related to the Earthquake-Related Oil Spills, including oversight and
13 monitoring costs incurred by the United States Fish and Wildlife Service or its
14 Designee. The check shall be made payable to Secretary of the Interior and be
15 delivered to:

16 Chief, Division of Finance
17 United States Fish and Wildlife Service
18 4401 North Fairfax Drive, Room 380
19 Arlington, VA 22203

20 The check shall reflect that it is a payment to the "Natural Resource Damage
21 Assessment and Restoration Fund, Account No. 14X5198 -- Santa Clara River Oil
22 Spill." The Department of the Interior will assign these funds a special project number
23 to allow the funds to be maintained as a segregated account within the Department of
24 the Interior Natural Resource Damage Assessment and Restoration Fund, Account No.
25 14X5198 (the "Santa Clara Account").

26 The Department of the Interior shall, in accordance with law, manage and invest
27 funds in the Santa Clara Account, and segregate in the Santa Clara Account any return
28 on investments or interest accrued for use by the Natural Resource Trustees in
connection with Restoration of Natural Resources and/or services impacted by the oil

1 spills. The Department of the Interior shall not make any charge against the Santa Clara
2 Account for any investment or management services provided.

3 The Department of the Interior shall hold all funds in the Santa Clara Account,
4 including return on investments or accrued interest, subject to the provisions of this
5 Decree and the Memorandum of Understanding to be entered into between the Natural
6 Resource Trustees to ensure coordination and cooperation in developing and
7 implementing a plan for Restoration of Natural Resources.

8 The Natural Resource Trustees, as co-equal joint trustees, commit to the
9 expenditure of the funds set forth in this paragraph, for the design, implementation,
10 permitting, as necessary, and monitoring and oversight of Restoration projects in and
11 along the Santa Clara River. The Natural Resource Trustees plan to use said funds for
12 habitat rehabilitation, revegetation, and/or protection of areas within the Santa Clara
13 River watershed, and wildlife projects which will benefit the least Bell's vireo and other
14 threatened or endangered species or species of special concern in and along the Santa
15 Clara River.

16 The details for specific projects will be contained in a Restoration plan proposal
17 to be developed by the Natural Resource Trustees; the final Restoration plan will be
18 developed and implemented after providing public notice, opportunity for a hearing, and
19 consideration of all public comment. The co-equal joint Trustees retain the ultimate
20 authority and responsibility to determine the use of funds received for Natural Resource
21 Damages in accordance with the provisions of the Oil Pollution Act, 33 U.S.C. § 2701
22 et seq., other relevant federal or state law, and the regulations governing use of
23 recoveries for Natural Resource Damages.

24 (b) \$250,000 (plus a prorata share of accrued interest, less escrow fees,
25 service fees or other charges levied pursuant to paragraph [8] above), by trust check,
26 certified check, or money order payable to the Department of Fish and Game, Office of
27 Oil Spill Prevention and Response or its designee for monitoring and oversight of

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1 Restoration related to the Earthquake-Related Oil Spills. The check or money order
2 shall be sent by certified mail to:

3 The Department of Fish and Game
4 Office of Oil Spill Prevention and Response
5 1700 K Street, Suite 250
6 Sacramento, CA 95814
7 Attn: Katherine Verrue-Slater, Staff Counsel

8 (c) **\$400,000** (plus a prorata share of accrued interest, less escrow fees,
9 service fees or other charges levied pursuant to paragraph [8] above) (\$200,000 relates
10 to the Earthquake-Related Oil Spills and \$200,000 relates to the Grapevine Incident), by
11 trust check, certified check, or money order payable to the Department of Fish and
12 Game, to be deposited into the Oil Pollution Administration Subaccount of the Fish and
13 Wildlife Pollution Account as specified in Fish and Game Code Section 13010. The
14 check or money order shall be mailed as specified in paragraph [9(b)] above.

15 (d) **\$100,000** (plus a prorata share of accrued interest, less escrow fees,
16 service fees or other charges levied pursuant to paragraph [8] above) (\$50,000 relates to
17 the Earthquake-Related Oil Spills and \$50,000 relates to the Grapevine Incident), by
18 trust check, certified check, or money order payable to the Department of Fish and
19 Game, to be deposited into the Oil Pollution Response and Restoration Subaccount of
20 the Fish and Wildlife Pollution Account as specified in Fish and Game Code Section
21 13010. The check or money order shall be mailed as specified in paragraph [9(b)]
22 above.

23 (e) **\$500,000** (plus a prorata share of accrued interest, less escrow fees,
24 service fees or other charges levied pursuant to paragraph [8] above), to the California
25 Regional Water Quality Control Board-Los Angeles for the Earthquake-Related Oil
26 Spills, as follows:

- 27 1. The sum of \$100,000 (plus a prorata share of accrued interest,
28 less escrow fees, service fees or other charges levied pursuant to
paragraph [8] above) to the California Regional Water Quality
Control Board-Los Angeles for the Cleanup and Abatement

1 Account. Said amount to be paid by trust check, certified check,
2 or money order made payable to the "State Water Resources
3 Control Board, Cleanup and Abatement Account," and sent by
4 certified mail to:

5 State Water Resources Control Board
6 Accounting Office
7 901 P Street
8 Sacramento, California 95812
9 Attn: Kelly Bartlett

- 10 2. The sum of \$200,000 (plus a prorata share of accrued interest,
11 less escrow fees, service fees or other charges levied pursuant to
12 paragraph [8] above) to the California Regional Water Quality
13 Control Board-Los Angeles for Watershed Management planning
14 Activities by trust check, certified check or money order made
15 payable to "The Los Angeles Regional Water Quality Control
16 Board Watershed Management Discretionary Fund, Account
17 Number 34-1509-8888" and sent by certified mail to:

18 San Jose State University Foundation
19 Los Angeles Regional Water Control Board
20 Watershed Management Fund
21 Contracts and Grants Office
22 P.O. Box 720130
23 San Jose, California 96172-0190
24 Attn: Erin Romer

- 25 3. The sum of \$100,000 (plus a prorata share of accrued interest,
26 less escrow fees, service fees or other charges levied pursuant to
27 paragraph [8] above) to the California Regional Water Quality
28 Control Board-Los Angeles for the Regional Board's
Comprehensive Electronic Database, Phase II (monitoring data
and effluent and receiving water data) by trust check, certified
check, or money order made payable to "Southern California
Edison, RWQCB Database Account" and sent by certified mail to:

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1 Southern California Edison Company
2 Los Angeles Regional Water Quality Control Board
3 Database Fund
4 SCE Environmental Affairs Project
5 Account Number 4340-094-585
6 P.O. Box 800
7 Rosemead, California 91770
8 Attn: David Kay

- 9 4. The sum of \$100,000 (plus a prorata share of accrued interest,
10 less escrow fees, service fees or other charges levied pursuant to
11 paragraph [8] above) to the California Regional Water Quality
12 Control Board for Mussel Watch and Toxic Substances
13 Monitoring by trust check, certified check or money order made
14 payable to the "Los Angeles Regional Water Quality Control
15 Board Sediment Contamination Characterization Discretionary
16 Fund, Account Number 34-1509-8888," and sent by certified mail
17 to:

18 San Jose State University Foundation
19 Los Angeles Regional Water Quality Control Board
20 Sediment Contamination Characterization Fund
21 Account Number 34-1509-8888
22 P.O. Box 720130
23 San Jose, California 96172-0190
24 Attn: Erin Romer

- 25 (f) \$50,000 (plus a prorata share of accrued interest, less escrow fees,
26 service fees or other charges levied pursuant to paragraph [8] above) to the California
27 Regional Water Quality Control Board-Central Valley Region for the Cleanup and
28 Abatement Account (for the Grapevine Incident). Said amount to be paid by trust
check, certified check, or money order made payable to the "State Water Resources
Control Board, Cleanup and Abatement Account," and sent by certified mail to:

State Water Resources Control Board
Accounting Office
901 P Street
Sacramento, California 95812
Attn: Kelly Bartlett

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1 (g) \$ 25,000 (plus a prorata share of accrued interest, less escrow fees,
2 service fees or other charges levied pursuant to paragraph [8] above), for civil penalties
3 relating to the Earthquake-Related Oil Spills pursuant to Section 11 of the Endangered
4 Species Act, 16 U.S.C. § 1540, by certified check or money order made payable to
5 "U.S. Fish and Wildlife Service", certified mail to:

6 The U.S. Fish and Wildlife Service
7 c/o Office of the Solicitor
8 600 Harrison Street, Suite 545
9 San Francisco, California 94107-1373

10 10. Within fifteen (15) days after lodging of this Decree and, where applicable,
11 receipt of payment instructions, Settlers shall make the following payments to each of the
12 entities identified in subparts (a), (b) and (c) of this paragraph [10] in the amount and manner
13 specified. All payments under this paragraph shall be accompanied by correspondence
14 referencing this Decree, and notice of such payments shall be given to the United States, the
15 State Agencies, and the People in accordance with paragraph [19] (Notices) by sending a copy
16 of the correspondence that accompanies each tendered payment. The Parties acknowledge that
17 APL has already paid the amount of \$220,744.65 to the United States Coast Guard. The
18 Parties further acknowledge that APL has already paid, in connection with the Earthquake-
19 Related Oil Spills, the amount of \$683,451.74, representing partial payment of the adjusted
20 response costs and damage assessment costs of \$854,965.75 to the Department of Fish and
21 Game, Office of Oil Spill Prevention and Response.

22 (a) \$90,247.28, to the Department of the Interior, Fish and Wildlife Service,
23 Natural Resource Damage Assessment and Restoration Fund, Account No. 14x5198 –
24 Santa Clara River Oil Spill, for reimbursement of Natural Resource Damage Assessment
25 costs associated with the Earthquake-Related Oil Spills. Payment shall be made by
26 FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of
27 Justice account in accordance with current electronic funds transfer procedures,
28 referencing Department of Justice case number 90-5-1-1-4347. Payment shall be made
in accordance with instruction provided to Settlers by the Financial Litigation Unit of

1 the United States Attorney's Office for the Central District of Los Angeles following
2 lodging of the Consent Decree. Any payment received by the Department of Justice
3 after 4:00 p.m. (Eastern Time) will be credited on the next business day.

4 (b) **\$171,514.01**, by trust check, certified check, or money order, for
5 reimbursement of outstanding Response costs and Natural Resource Damage Assessment
6 costs associated with the Earthquake-Related Oil Spills payable to the Department of
7 Fish and Game, Office of Oil Spill Prevention and Response for deposit into the Oil
8 Spill Prevention and Response Fund created pursuant to Government Code Section
9 8670.46. The check or money order shall be mailed as specified in paragraph [9(b)]
10 above.

11 (c) **\$15,795.80**, to the Department of the Interior, Fish and Wildlife Service,
12 Natural Resource Damage Assessment and Restoration Fund, Account No. 14x5198 –
13 Santa Clara River Oil Spill, for reimbursement of Response costs and Natural Resource
14 Damage Assessment costs associated with the Grapevine Incident shall be made by
15 FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of
16 Justice account in accordance with current electronic funds transfer procedures,
17 referencing Department of Justice case number 90-5-1-1-4347. Payment shall be made
18 in accordance with instruction provided to Settlers by the Financial Litigation Unit of
19 the United States Attorney's Office for the Central District of Los Angeles following
20 lodging of the Consent Decree. Any payment received by the Department of Justice
21 after 4:00 p.m. (Eastern Time) will be credited on the next business day.

22 11. APL shall pay the People the sum of \$500,000.00 to be distributed as follows:

23 (a) A civil penalty in the amount of \$100,000.00 (the "Civil Penalty"). APL
24 shall tender payment of the Civil Penalty to the office of the Los Angeles District
25 Attorney (the "District Attorney").

26 (b) In satisfaction of any obligation to remediate, payments totaling \$400,000
27 shall be paid by APL to the entities identified in subparts (b) 1 through 9 of this
28 paragraph 11 in the amount and manner specified:

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1. \$120,000 by check payable to the order of the Los Angeles District Attorney Crime Prevention Foundation - Environmental Fund.
2. \$80,000 by check payable to the order of the County Sanitation Districts of Los Angeles County laboratories.
3. \$25,000 by check payable to the order of the Santa Clarita Organization for Planning the Environment (SCOPE).
4. \$25,000 by check payable to the order of the Friends of the Santa Clara River.
5. \$33,333.34 by check payable to the order of the Los Angeles Conservation Corps.
6. \$33,333.33 by check payable to the order of the Conservation Corps of Long Beach.
7. \$33,333.33 by check payable to the order of the California Conservation Corps, Los Angeles District.
8. \$25,000 by check payable to the order of the Tree People.
9. \$25,000 by check payable to order of the Heal the Bay.

All payments under this paragraph shall be accompanied by correspondence referencing this Decree. All payments under subparts (b) 1 through 9 of this paragraph shall be tendered to the District Attorney for its distribution to the specified entities. All amounts as provided in this paragraph [11] shall be disbursed by APL to the District Attorney within 15 days after the earlier of entry of Final Judgment or termination as to the United States and State Agencies pursuant to paragraph [23].

NO ADMISSIONS

12. Neither by entering into this Decree nor by taking any action in accordance with it, do Settlers admit any liability for any purpose or admit any issues of law or fact or any responsibility for the Earthquake-Related Oil Spills or the Grapevine Incident. Under no circumstances shall the settlement of this matter, including but not limited to the payments

1 specified above, be deemed an admission by Settlor of Settlor's liability as to any claim, fact
2 or issue concerning, relating to or arising out of the Earthquake-Related Oil Spills or the
3 Grapevine Incident. Neither the fact of the settlement of this matter nor the Decree shall be
4 admissible in any proceeding or procedure for the purpose of imputing, implying, or otherwise
5 raising an inference of wrongdoing by Settlor or any of the Parties released in paragraph [13]
6 or [15] below (the "Released Parties").

7 **RELEASES AND COVENANTS NOT TO SUE**

8 13. Effective upon entry of this Decree and receipt of payments specified in
9 paragraphs [8] and [10], the State Agencies release Settlor and Settlor's subsidiary and
10 affiliate corporations, and each of their past and present directors, officers, attorneys,
11 employees, successors and assigns (collectively the "Released Parties") from, and covenant not
12 to sue or take any action against any of them for: (i) any and all civil claims alleged in the
13 Complaint in this action; (ii) all claims for damages for injury to, loss of, or destruction of
14 Natural Resources whether known or unknown, suspected or unsuspected, arising out of the
15 Earthquake-Related Oil Spills or the Grapevine Incident; and (iii) any and all claims, demands,
16 liabilities, costs, expenses, fines, penalties, response costs, cost of assessing natural resource
17 damages, enforcement or litigation costs (including attorneys fees) whether known or
18 unknown, suspected or unsuspected, except such costs relating to the enforcement of this
19 Decree, relating to or arising out of the Earthquake-Related Oil Spills or the Grapevine
20 Incident, all of which are hereinafter called the "Released Claims." The Released Claims
21 include, common law, statutory, civil, criminal (to the extent permitted by applicable law) and
22 administrative claims arising out of, resulting from, or related to the Earthquake-Related Oil
23 Spills or the Grapevine Incident.

24 14. Effective upon entry of this Decree and receipt of payments specified in
25 paragraphs [8] and [10], the United States on behalf of its Natural Resource Trustees, releases
26 and covenants not to sue or take action against Settlor and Settlor's successors and assigns,
27 for: (i) any and all civil claims alleged in the Complaint in this action; (ii) all claims for
28 damages for injury to, loss of, or destruction of Natural Resources whether known or unknown

1 arising out of the Earthquake-Related Oil Spills or the Grapevine Incident; and (iii) any and all
2 response costs and costs of assessing Natural Resource Damages arising out of, resulting from,
3 or related to the Earthquake-Related Oil Spills or the Grapevine Incident.

4 15. Effective upon entry of this Decree and receipt of payments specified in
5 paragraph [11], the People release Settlers and Settlor's subsidiary and affiliate corporations,
6 and each of their past and present directors, officers, attorneys, employees, successors and
7 assigns (collectively the "Released Parties") from, and covenants not to sue or take any action
8 against any of them for: (i) any and all civil claims alleged in the Complaint in this action; and
9 (ii) all claims, demands, warranties, debts, obligations, liabilities, costs, expenses, fines,
10 penalties, response costs, enforcement or litigation costs (including attorneys fees), interest, or
11 any rights of action and causes of action, of any kind or character whatsoever, whether known
12 or unknown, suspected or unsuspected, arising prior to the date first above written, or which
13 may hereafter be claimed to arise out of any action, inaction, event or matter occurring prior
14 to the date first above written, relating to or arising out of the Earthquake-Related Oil Spills,
15 all of which are hereinafter called the "Released Claims." The Released Claims include,
16 without limitation, common law, statutory, civil, criminal (to the extent permitted by
17 applicable law) and administrative claims or any other claims arising out of, resulting from, or
18 related to the Earthquake-Related Oil Spills.

19 16. Effective upon entry of this Decree, Settlers hereby release the United States and
20 the State Agencies from, and covenant not to sue or to take any other civil or administrative
21 action against, the United States or the State Agencies for any and all civil claims that arise
22 from, or are based on, the Earthquake-Related Oil Spills and the Grapevine Incident. Settlers
23 waive the requirements of 50 C.F.R. Part 11, with regard to the civil penalty pursuant to the
24 Endangered Species Act.

25 RESERVATION OF RIGHTS

26 17. Nothing in this Decree creates, nor shall it be construed as creating, any claim in
27 favor of any person not a party to this Decree.

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1 18. The covenants not to sue in paragraphs [13], [14] and [15] above shall not apply
2 to: (i) any claim based on a failure of Settlers to satisfy the requirements of this Decree; or (ii)
3 claims for criminal liability brought by the United States.

4 NOTICES

5 19. Whenever, under the terms of this Decree, written notice is required to be given
6 by one Party to another, it shall be directed to the individuals and addresses specified below,
7 unless the individuals specified or their successors give notice, in writing, to the other Parties
8 that notice should be directed to a different individual or address.

9 Notice to the United States:

10 Chief, Environmental Enforcement Section
11 Environment and Natural Resources Division
12 U.S. Department of Justice
13 P.O. Box 7611
14 Washington, D.C. 20044

15 Regional Director
16 United States Fish and Wildlife Service
17 911 N.E. - 11th Avenue
18 Portland, Oregon 97232

19 Notice to the State Agencies:

20 Michael W. Neville
21 Deputy Attorney General
22 California Attorney General's Office
23 50 Fremont Street, Suite 300
24 San Francisco, CA 94105-2239

25 Administrator
26 Department of Fish and Game
27 Office of Oil Spill Prevention and Response
28 1700 K Street, Suite 250
Sacramento, CA 95814

Dr. Robert Ghirelli
California Regional Water Quality Control Board
Los Angeles Region
101 Centre Plaza Drive
Monterey Park, CA 91754

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1 Notice to the People

2 David Eng
3 Deputy District Attorney
4 Office of the Los Angeles
5 District Attorney
6 320 West Temple Street
7 Room 340
8 Los Angeles, California 90012

6 Notice to Settlers:

7 Herbert A. Birenbaum
8 Room LAC-1597 / (310) 590-4421
9 ARCO Pipe Line Company
10 300 Oceangate
11 Long Beach, California 90802

10 Ronald C. Peterson
11 Steven R. Tekosky
12 Heller, Ehrman, White & McAuliffe
13 601 So. Figueroa Street, 40th Floor
14 Los Angeles, California 90017

13 **REPRESENTATIVES**

14 20. Each person signing this Decree on behalf of APL, ARCO, the State Agencies,
15 the Office of the Los Angeles District Attorney, and the Assistant Attorney General certifies
16 that he or she is fully authorized to enter into the terms and conditions of this Decree and to
17 execute and legally bind the Parties to this Decree.

18 **MODIFICATION**

19 21. Minor modifications not materially altering this Decree may be effected by the
20 written agreement of the Parties. No other modifications of this Decree may be made unless
21 the Parties agree in writing to the modification and the Court approves of the requested
22 modification. Nothing in this paragraph shall be deemed to limit the Court's power to
23 supervise or modify this Consent Decree.

24 **LODGING, OPPORTUNITY FOR PUBLIC COMMENT, AND APPEALS**

25 22. This Decree shall be lodged with the Court for a period of 30 days for public
26 notice and comment. The United States and State Agencies reserve the right to withdraw or
27 withhold its consent if the comments regarding the Decree disclose facts or considerations
28 which indicate that this Decree is inappropriate, improper, or inadequate. Settlers consent to

1 the entry of this Decree without further notice. All Parties agree not to appeal entry of this
2 Decree.

3 TERMINATION

4 23. (a) Except as provided in subpart (b) of this paragraph 23, this Decree shall
5 terminate and be of no further force and effect, including the releases and covenants not
6 to sue in paragraphs [13], [14] and [16], upon occurrence of any of the following:

- 7 1. The United States or any of the State Agencies withdraws or
8 withholds its consent to entry of the Decree; or
- 9 2. The Court refuses to enter the Decree in its present form; or
- 10 3. The Decree is overturned on appeal with no possibility of being
11 reinstated upon further appeal.

12 (b) Paragraph 23(c) shall in no event terminate and shall remain effective as
13 to all Parties regardless of whether the Decree is entered by the Court. To the extent
14 applicable to the People and Settlers, paragraphs [5], [6], [7], [11], [12], [15], [17],
15 [18], [19], [20], [21], [23], [24], [26], [27], [28] and [29] shall in no event terminate
16 and shall remain effective as between the People and Settlers regardless of whether the
17 Decree is entered by the Court.

18 (c) In the event this Decree terminates pursuant to subpart (a) of this
19 paragraph 23, the funds deposited by Settlers into escrow pursuant to paragraph [8] of
20 this Decree, plus any interest earned on those funds, shall be repaid to Settlers within
21 fifteen (15) days after termination. Termination of this Decree pursuant to subpart (a)
22 of this paragraph 23 shall be effective upon repayment to Settlers of this amount.

23 FACILITATION

24 24. The Plaintiffs and Settlers agree to perform in good faith such acts as are
25 necessarily and reasonably required to perform the covenants and satisfy the conditions of this
26 Decree.

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1 CONTINUING JURISDICTION

2 25. The Court retains jurisdiction to enforce the terms of this Decree and Settlement
3 Agreement and to enforce the Memorandum of Understanding to be entered into by the
4 Natural Resource Trustees as specified in paragraph [9(a)].

5 ENTIRE AGREEMENT

6 26. The Plaintiffs and Settlers agree that this Decree constitutes a single, integrated,
7 written contract expressing their entire agreement. No other statements, representations, or
8 promises, written or oral, expressed or implied, have been made by any
9 party to any other party. All prior discussions and negotiations have been and are merged in,
10 and integrated into, and are superseded by, this Decree.

11 INTERPRETATION

12 27. The captions contained in this Decree have been inserted for purposes of
13 convenience and ease of reference only and shall not affect the construction or interpretation of
14 this Decree or any of its provisions. The normal rule of contractual construction providing
15 that ambiguities be resolved against the drafting party shall not be employed in the
16 interpretation of this Decree.

17 COUNTERPARTS

18 28. This Consent Decree may be executed in any number of counterparts and each
19 executed counterpart shall have the same force and effect as the original instrument.

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21 **IT IS SO ORDERED:**

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23 Dated: _____

UNITED STATES DISTRICT JUDGE

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1 FOR THE STATE AGENCIES:

2 CALIFORNIA DEPARTMENT OF FISH AND GAME

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4
5 By: 
6 PETE BONTADELLI
7 Administrator
8 Office of Oil Spill Prevention and Response

Date: 12-23-96

9 REGIONAL WATER QUALITY CONTROL BOARD
10 Los Angeles Region

11
12 By: 
13 DR. ROBERT GHIRELLI
14 Executive Officer

Date: 12-10-96

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24 APPROVED AS TO FORM:

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27 By: 
28 MICHAEL W. NEVILLE
Deputy Attorney General

Date: December 4, 1996

1 FOR THE LOS ANGELES DISTRICT ATTORNEY:

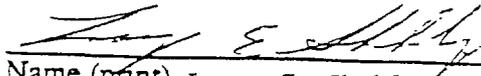
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By: *Richard F. Sullivan*
RICHARD F. SULLIVAN
Head Deputy
Environmental Crimes Division
Office of the District Attorney
County of Los Angeles

Date: 12/4/96

1 FOR ARCO PIPE LINE COMPANY:
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3

4 By:


Name (print) Larry E. Shakley
Title (print) President

Date: 12/6/96

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1 FOR ATLANTIC RICHFIELD COMPANY:

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By: 
- Name (print) Anthony G. Fernandes *(initials)*
Title (print) Executive Vice President

Date: 12/6/96

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PROOF OF SERVICE

I am employed in the City of Washington, D.C. by the U.S. Department of Justice; am over the age of 18 years; not a party to this action herein; and my business address is P.O. Box 7611, Washington, D.C. 20044.

On January 16, 1997, I served the foregoing documents described as:

AGREEMENT AND CONSENT DECREE

on the interested parties to this action as follows:

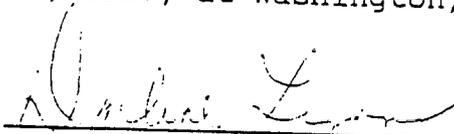
Herbert Birenbaum
ARCO Pipe Line Company
Room LAC-1597
300 Oceangate
Long Beach, CA 90802

Ronald Peterson
Heller, Ehrman, White & McAuliffe
601 S. Figueroa Street
40th Floor
Los Angeles, CA 90017

I certify that a true copy thereof was served by U.S. Mail in a sealed envelope with postage thereon, fully prepaid, except as otherwise indicated, at Washington, D.C.

I declare that I am employed in the office of a member of the Bar of this court at whose direction the service was made.

Executed on January 16, 1997, at Washington, D.C.



Darlene Lyons