



**Winston H. Hickox**  
Secretary for  
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# State Water Resources Control Board

## Division of Clean Water Programs

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**Gray Davis**  
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*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).*

August 16, 2002

To: Local Agency Underground Storage Tank Program Managers

## **SETTLEMENT OF UNDERGROUND STORAGE TANK (UST) UPGRADE VIOLATIONS AT 59 ARCO STATIONS**

The purpose of this letter is to inform you of a settlement agreement between the People of the State of California and Atlantic Richfield Company (ARCO) regarding alleged violations of the underground storage tank (UST) upgrade requirements and to explain those provisions of the settlement that may affect local regulatory agencies.

### Overview

The State Water Resources Control Board (SWRCB), in coordination with the California Environmental Protection Agency (Cal/EPA), the California Air Resources Board, the local regulatory agencies, and the Attorney General's Office began investigating ARCO's UST facilities in November 1999 in response to information provided by San Joaquin County to Cal/EPA regarding potential compliance issues at ARCO facilities. Our investigation revealed 59 ARCO facilities we believed to be in violation of the December 22, 1998 underground storage tank (UST) upgrade requirements. This provided sufficient information for the Attorney General's Office to file a complaint. At the same time the complaint was filed, the parties submitted a settlement agreement to the court for approval. In total, the settlement is worth \$45.8 million. Under the terms of the agreement, ARCO will pay the State \$25 million in penalties and will be credited \$20.8 million for additional environmental improvements that were not required by law. ARCO will also pay to reimburse the State's investigative costs and to fund several special environmental projects. The State Board may use \$1,000,000 of the penalty amount to fund the Environmental Circuit Prosecutors Project. In addition, \$500,000 may be used to fund investigation and enforcement training of State and local environmental agencies.

### Notification of Work

Under the terms of the agreement, ARCO must continue to give the SWRCB and local regulatory agencies 72-hour advance written notice of any work that it undertakes that will expose any part of an UST. ARCO consents to the inspection of any UST system for which it has given 72-hour advance notice, including the taking of photographs, split samples, and copies of on-site documents. ARCO's consent, however, does not include the removal of any component of an UST without prior approval. ARCO's obligation to provide written notice will continue until December 31, 2002. At that time, the State has the option of renewing ARCO's notice requirement for up to one additional year. (We understand that ARCO has been giving this notice since May 2000.)

**California Environmental Protection Agency**

### Single-Walled Systems

ARCO represents that all of its UST systems now meet the December 22, 1998 upgrade requirements and that it no longer has any single-walled tanks, single-walled product piping, or fiber trench systems in operation in California. However, by the terms of the agreement, if ARCO discovers a system that does not meet the upgrade requirements (including, but not limited to, USTs that do not have an upgrade compliance certificate and USTs that have single-walled steel product piping wrapped with tape), ARCO must shut down the UST system and notify the SWRCB and the local regulatory agency within 72 hours. In addition, if ARCO discovers any system that meets the 1998 upgrade requirements, but nevertheless contains single-walled components (i.e., cathodically protected steel or fiberglass tanks or piping), it must notify the SWRCB and the local regulatory agency within 72 hours of discovery. Although such an UST system may not be in violation of the regulatory requirements, ARCO must replace the single-walled components or shut down the UST system within six months of the date of discovery. This 6-month deadline assumes that ARCO is able to receive the necessary permits or authorizations within 90 days of discovery. ARCO is not required to immediately shut down an UST system with a single-walled component unless it fails to meet the 1998 upgrade requirements.

### Steel Manways/Steel Vapor Pots

If ARCO discovers either (1) a steel manway cover integral to an underground storage tank that is in direct contact with backfill, or (2) a steel vapor pot, that in each case was installed after January 1, 1984 with local agency approval, the agreement provides that ARCO has 72 hours to notify the local agency of its discovery. ARCO has agreed to promptly apply to the local agency for the necessary permits to redress this issue to the satisfaction of the local agency as soon as reasonably possible. You may require that (1) ARCO isolate any steel manway cover from backfill through the installation of a sump and/or (2) ARCO replace a non-cathodically protected steel vapor pot with fiberglass components. The agreement does not require that ARCO immediately shut down the UST system for these issues.

### “Booted Components”

For the purposes of this settlement agreement, a “booted component” is defined as a swing joint, flex joint, or transition product pipe that was installed after January 1, 1984 and that has a boot as part of the monitored, secondary containment system, and is connected to either a shear valve under a dispenser or to a turbine pump. The most common type of boot, if it is monitored for leak detection, is the accordion-style rubber boot that encases a braided steel flex connector. If a boot simply provides a single-walled component isolation from backfill (such as a zip-boot), it is not a booted component for the purposes of this settlement agreement. ARCO has agreed that it will inspect facilities having booted components every nine months to determine if there is soil, gravel, or backfill material above the boot in contact with bare steel. If backfill material is discovered above the booted component, ARCO will notify the local agency and the SWRCB within 72 hours of the discovery and will promptly apply to the local regulatory agency for any necessary permits or authorization to remove the backfill from the non-fiberglass component.

ARCO will remove the backfill material within three days of receiving local agency approval. ARCO is NOT required to shut down the UST system upon discovery of backfill above a booted component.

Response to Newly-Discovered Upgrade Violations

By the terms of this agreement and court order, the San Francisco Superior Court will retain jurisdiction to address any newly discovered violations by ARCO of the December 22, 1998 upgrade requirements. Although these violations may still be prosecuted, the local regulatory agencies may not bring enforcement action against ARCO separate from the People's existing enforcement lawsuit. The SWRCB will be collecting the evidence of any newly discovered ARCO upgrade violations. Local agencies should notify the SWRCB immediately of any 1998 upgrade violations by ARCO so that we may present the evidence to the Attorney General's Office for prosecution. For any violations by ARCO other than violations of the December 22, 1998 upgrade requirements, please follow your normal enforcement protocols.

Conclusion

We appreciate your help throughout this investigation and especially thank those local regulatory agencies that provided staff and other assistance. We particularly appreciate your cooperation while coordinating and conducting inspections, your prompt responses to our requests for information, and your willingness to share the data that you collected during your inspections. Our collective goal is regulatory compliance to protect health and the environment. Achieving compliance is a group effort and local agencies are our eyes and ears. We look forward to working with you in the future to ensure UST compliance throughout California.

For your review, the complete settlement document is available upon request or can be viewed on our website ([www.swrcb.ca.gov/cwphome/ust/](http://www.swrcb.ca.gov/cwphome/ust/)). If you have any questions or need further clarification of the settlement and how it may affect you, please contact Ms. Leslie J. Alford, Chief of the UST Enforcement Unit, at (916) 341-5810 or [alfordl@cwpc.swrcb.ca.gov](mailto:alfordl@cwpc.swrcb.ca.gov).

Sincerely,

*[original signed by]*

Elizabeth L. Haven, Manager  
Underground Storage Tank Program

cc: See attached

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