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17
18 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
19 AT SAN FRANCISCO

20 STATE OF CALIFORNIA, STATE OF
OREGON and STATE OF
21 WASHINGTON,

22 Plaintiffs,

23 v.

24 BP AMOCO p.l.c. and ATLANTIC
RICHFIELD COMPANY,

25 Defendants.
26

NO. C00 0420 SI
(Consolidated with
C00 0416 SI)

CONSENT DECREE AND
FINAL JUDGMENT

ORIGINAL
FILED

APR 17 2000

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RECEIVED

APR 13 2000

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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CONSENT DECREE AND FINAL
JUDGMENT

1
COPY

ATTORNEY GENERAL OF WASHINGTON
900 Fourth Avenue, Suite 2000
Seattle, WA 98164
(206) 464-7744

1 Plaintiffs, the States of California, Oregon and Washington, filed their Complaint herein and
2 Defendants were duly served with copies of the Summons and Complaint. Defendants, by and
3 through their attorneys, have consented to the entry of this Consent Decree and Final Judgment
4 without trial or adjudication of any issue of fact or law herein and have waived notice of
5 presentation of this Consent Decree and Final Judgment ("Consent Decree"). This Consent Decree
6 does not constitute any evidence against or an admission by any party with respect to any issue of
7 law or fact herein.

8 Defendants have agreed to be bound by the provisions of this Consent Decree and there is
9 no just reason for delay in its entry. NOW, THEREFORE, before the taking of any testimony, and
10 without trial or adjudication of any issue of fact or law herein, and upon consent of the parties
11 hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

12 I. JURISDICTION

13 A. This Court has jurisdiction over the subject matter of this action and over each of the
14 parties hereto. The Complaint states a claim upon which relief may be granted against the
15 Defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

16 B. The Attorneys General of California, Oregon and Washington have authority to
17 bring this action pursuant to section 16 of the Clayton Act, 15 U.S.C. §26.

18 II. DEFINITIONS

19 As used in this Consent Decree:

20 A. "Acquirer" means the single entity and any of its subsidiaries to whom the ARCO
21 Alaska Assets (as defined herein) are sold by the trustee as required by the terms of this Consent
22 Decree.

23 B. "Acquisition" or "merger" means the proposed acquisition of ARCO by BP Amoco
24 as described in the March 31, 1999, Agreement and Plan of Merger.

25 C. "Alaska" means the State of Alaska and offshore land and outer continental shelf
26 subject to the jurisdiction of the State of Alaska or the United States.

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1 D. "Alaska Acquirer" means the single entity and any of its subsidiaries, successors and
2 assigns, to whom the ARCO Alaska Assets and ARCO Beluga, Inc. are divested by the trustee as
3 required by the terms of this Consent Decree.

4 E. "Alaska Approval Assets" means the following ARCO Alaska Assets requiring
5 Alaska Approval Asset Consents:

- 6 1. All of the outstanding shares of common stock of Arco Transportation
7 Alaska, Inc. and associated local, state and federal Rights of Way;
- 8 2. All of the outstanding shares of common stock of ARCO Marine, Inc. and
9 any associated local, state and federal Rights of Way;
- 10 3. All of the outstanding shares of common stock of Kuparuk Pipeline
11 Company and associated local, state and federal Rights of Way;
- 12 4. All of the outstanding shares of common stock of Oliktok Pipeline Company
13 and associated local, state and federal Rights of Way;
- 14 5. All of the outstanding shares of common stock of Alpine Pipeline Company
15 and associated local, state and federal Rights of Way;
- 16 6. All of ARCO's shares of the Cook Inlet Pipeline Company and
17 any associated local, state and federal Rights of Way;
- 18 7. The Certificate of Convenience and Necessity of the Alpine
19 Pipeline Company from ARCO Alaska, Inc. to Alpine Pipeline Company;
- 20 8. All Alaska state oil and gas leases held or controlled by ARCO or any
21 subsidiary of ARCO, as identified in Schedule A, attached;
- 22 9. Existing Supply Agreements for the long-term supply of crude oil between
23 BP Amoco and certain refineries, as identified in Schedule B, attached;
- 24 10. Shipping assets related to the Construction Contract;
- 25 11. Any other local, state and federal permits not otherwise included in this
26 definition of Alaska Approval Assets;
12. The Alpine Rights of Way; and
13. Any or all of the AMI Conveyed Properties, as that term is defined in the
Alaska MPSA, and the ARCO Trader bareboat charter assignments.

F. "Alaska Approval Asset Consents" means all consents or waivers from private
entities and local, state and federal regulatory bodies, including FERC and the State of Alaska, or

1 other consents or waivers from partners or otherwise, that are necessary to effect the complete
2 transfer of the Alaska Approval Assets, or of any other assets that were not listed in the definition
3 of Alaska Approval Assets but are a part of the ARCO Alaska Assets, to Phillips or the Alaska
4 Acquirer, as applicable.

5 G. "Alaska MPSA" means the March 15, 2000, Master Purchase and Sale Agreement
6 an amendments thereto by and among ARCO, CH-Twenty, Inc., BP Amoco and Phillips, as
7 amended, April 6, 2000.

8 H. "Alpine Rights of Way" means the right-of-way leases by and between the State of
9 Alaska and ARCO for the Alpine crude oil pipeline (ADL- 415701), the Alpine diesel line (ADL-
10 415932) and the right-of-way granted by and between the State of Alaska and ARCO Alaska, Inc.
11 under the Alpine utility pipeline (ADL-415857).

12 I. "ANS" means the geographic area commonly referred to as the Alaska North Slope.

13 J. "ANS crude oil" means crude oil produced from the Alaska North Slope.

14 K. "ARCO" means Atlantic Richfield Company, its officers, directors, employees,
15 agents and representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries,
16 divisions, groups and affiliates controlled by Atlantic Richfield Company and the respective
17 directors, officers, employees, agents, representatives, successors, and assigns of each.

18 L. "ARCO Alaska Assets" means all assets, properties, businesses and goodwill,
19 tangible and intangible, of ARCO, that are as of the date of entry of this Decree, related to and
20 primarily used with or in connection with the ARCO Alaska Businesses, including, without
21 limitations, the following:

22 1. ARCO's interest, direct or indirect, in ARCO Alaska, Inc., ARCO
23 Transportation Alaska, Inc. (including any interests in Alyeska Pipeline Service Company
24 and Prince William Sound Oil Spill Response Corp.), ARCO Marine Inc., ARCO Marine
25 Spill Response Company, Union Texas Petroleum Holdings, Inc. ("UTPH") (excluding all
26 assets of UTPH other than Union Texas Alaska, LLC), Union Texas Alaska, LLC, Kuparuk

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1 Pipeline Company (including any interests in Kuparuk Transportation Company and
2 Kuparuk Transportation Capital Corporation), Cook Inlet Pipeline Company, Alpine
3 Pipeline Company and Oliktok Pipeline Company;

4 2. all of ARCO's interest in the office complex of ARCO Alaska, Inc., located
5 at Lot 1A, Block 81, ORIGINAL TOWNSITE, according to the official plat thereof, filed
6 under Plat Number 82-337, Records of the Anchorage Recording District, Third Judicial
7 District, State of Alaska;

8 3. all of ARCO's interest in the aircraft lease (Amended and Restated Lease
9 Agreement between First Security Bank, National Association, Lessor and ARCO, Lessee,
10 dated as of December 31, 1999) covering one Boeing 737-205 Aircraft and its related
11 Engines, U.S. Registration No. N733AR;

12 4. ARCO Alaska Intellectual Property;

13 5. ARCO Patents;

14 6. ARCO Seismic Data;

15 7. all rights, titles and interests of AMI Leasing, Inc. (a wholly owned
16 subsidiary of ARCO) in and to five vessels named, at the time of signing of this Consent
17 DECree, the ARCO Alaska, the ARCO California, the ARCO Texas, the ARCO Spirit and
18 the ARCO Independence, being all of the tankers used by ARCO in the ARCO Alaska
19 Businesses and the bareboat charter of the ARCO Trader;

20 8. all rights, titles and interests of AMI Leasing, Inc. in and to the Construction
21 Contract, being the only existing agreement of ARCO for new ship construction relating to
22 the ARCO Alaska Businesses;

23 9. all rights, titles and interests of ARCO and ARCO Alaska, Inc. in and to the
24 Alpine Rights of Way;
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1 10. all rights, titles and interests in and to the Alaska state oil and gas leases held
2 by ARCO relating to the ARCO Alaska Businesses, which are identified on Schedule A,
3 attached;

4 11. to the extent not included in any of the foregoing sections of this paragraph,
5 any rights, commitments, contracts or other options held by ARCO to acquire, lease or rent
6 any asset primarily used in, or connected with, exploring for, developing or producing
7 hydrocarbons in Alaska or transporting hydrocarbons to or from Alaska;

8 12. to the extent not included in any of the foregoing sections of this paragraph,
9 all rights titles and interests in and to contracts, licenses, permits and agreements primarily
10 used in or connected with the ARCO Alaska Businesses, including all rights, titles and
11 interests in and to the contracts entered into in the ordinary course of business in connection
12 with the ARCO Alaska Businesses with customers (together with associated bid and
13 performance bonds) suppliers, service providers, vendors, sales representatives, distributors,
14 partners, agents, personal property lessors, personal property lessees, licensors, licensees,
15 consignors and consignees;

16 13. all customer lists, vendor lists, catalogs, sales promotion literature and
17 advertising materials that are used in or connected with the ARCO Alaska Businesses;

18 14. all of the books ledgers, files, reports, plans and operating records of, or
19 maintained by, or pertaining to, any of the ARCO Alaska Companies in whatever form
20 stored or retained; and

21 15. all Product Inventory as that term is defined in the Alaska MPSA.

22 PROVIDED, HOWEVER, that ARCO Beluga, Inc. and ARCO's proprietary trade names
23 and trademarks are excluded from the definition of ARCO Alaska Assets.

24 M. "ARCO Alaska Businesses" means the business of:

25 1. acquiring any right or option (whether or not contingent) to bid, explore for,
26 develop or produce hydrocarbons in Alaska;

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1 2. exploring for, developing or producing hydrocarbons in Alaska or
2 transporting or shipping hydrocarbons within or from Alaska;

3 3. providing any product or service, directly or indirectly, with or without
4 compensation, to any person engaged in any of the activities in subparagraphs 1 or 2 of this
5 paragraph where such product or service is primarily used in or related to such person's
6 activities in Alaska; or

7 4. supporting ARCO in any of the activities in subparagraphs 1 or 2 of this
8 paragraph, as those activities were conducted by ARCO on March 15, 2000.

9 N. "ARCO Alaska Company" means each of ARCO Alaska, Inc., ARCO
10 Transportation Alaska, Inc., ARCO Marine, Inc., ARCO Marine Spill Response Company, Union
11 Texas Petroleum Holdings, Inc., Union Texas Alaska, LLC, Kuparuk Pipeline Company, Alpine
12 Pipeline Company and Oliktok Pipeline Company.

13 O. "ARCO Alaska Employees" means employees employed by or working for the
14 ARCO Alaska Business on or since March 15, 2000, including all employees of any ARCO Alaska
15 Company, or ARCO Beluga, Inc. and those employees covered by Schedule 5.6 of the Alaska
16 MPSA.

17 P. "ARCO Alaska Intellectual Property" means intellectual property, inventions,
18 technology, trademarks, trade names, trade secrets, copyrights, know how, research material,
19 technical information, seismic data, geological data, geophysical data, management information
20 systems, software and software specifications, designs, drawings, plans (whether proposed or
21 tentative, whether adopted, pending or implemented), specifications, processes and quality control
22 data that, as of the date that the Consent Agreement is signed, are owned, in whole or in part (but
23 only to the extent of such part), by or has been assigned to any ARCO Alaska Company, including
24 any special analyses, interpretations and other derivatives from proprietary seismic, geological and
25 geophysical data owned by ARCO Alaska, Inc. relating to any hydrocarbons in Alaska or the
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1 geology of Alaska. PROVIDED, HOWEVER, that ARCO Alaska Intellectual Property shall not
2 include the ARCO patents or any proprietary trade names or trademarks of ARCO.

3 Q. "ARCO Beluga, Inc." means ARCO Beluga, Inc., a wholly-owned subsidiary of CH-
4 Twenty, Inc., in which ARCO Alaska, Inc. owns approximately 43% of its common stock with the
5 remainder owned by ARCO and seven non-affiliated investors.

6 R. "ARCO Geoscience and Reservoir Intellectual Property" means all technical
7 information, patents, computer programs and code, including all supporting manuals and
8 documentation that, as of the date the Consent Decree is signed, are owned, in whole or in part (but
9 only to the extent of such part), by ARCO, excluding any ARCO Alaska Company, and used in or
10 connected with the ARCO Alaska Businesses and related (1) to modeling and simulation of
11 subsurface hydrocarbon reservoirs, (2) to interpreting seismic, geological and geophysical data and
12 reservoir data, (3) to optimizing facilities, and (4) to drilling and producing hydrocarbons. Such
13 ARCO Geoscience and Reservoir Intellectual Property includes, but is not limited to: (a)
14 geophysical techniques employing elastic impedance seismic inversion technology; (b) reservoir
15 simulation computer models (known as "ACRES"); (c) enhanced oil recovery and fluid
16 characterization technology; (d) geomechanical modeling; (e) fluid flow ("ARCO90") relative
17 permeability technology; and (e) analytical reservoir measurement techniques.

18 S. "ARCO Intellectual Property" means intellectual property, inventions, technology,
19 trademarks, trade names, trade secrets, patents, copyrights, know-how, research material, technical
20 information, management information systems, software and software specifications, designs,
21 drawings, plans (whether proposed or tentative, whether adopted, pending or implemented),
22 specifications, processes and quality control data that, as of the date the Consent Agreement is
23 signed, are owned, in whole or in part (but only to the extent of such part), by ARCO, excluding
24 any ARCO Alaska Company, and either are licensed by ARCO to an ARCO Alaska Company or
25 are otherwise primarily used in, for or connected with the ARCO Alaska Businesses as of the date
26 this Consent Decree is signed, including, without limitation, all information, technology, know-

1 how, research and other intangible assets and expertise used in connection with the ARCO Alaska
2 Businesses related to miscible injection for enhanced oil recovery and technology related to
3 unconsolidated sands. PROVIDED, HOWEVER, that ARCO Intellectual Property shall not
4 include ARCO Patents, ARCO Seismic Data, ARCO Geoscience and Reservoir Intellectual
5 Property or any proprietary trade names or trademarks of ARCO.

6 T. "ARCO Patents" means all patents, patent applications and inventions that, as of the
7 date the Consent Agreement is signed by Defendants, are owned, in whole or in part, (but only to
8 the extent of such part), by ARCO and primarily related to ARCO Alaska Businesses or otherwise
9 primarily used by, for or in connection with an ARCO Alaska Company, in each case subject to any
10 licenses to or other agreements with third parties in effect as of the date the Consent Decree is
11 signed.

12 U. "ARCO Seismic Data" means all proprietary seismic, geological and geophysical
13 data that, as of the date that the Consent Agreement is signed by Defendants, are owned, in whole
14 or in part (but only to the extent of such part), by ARCO relating to any hydrocarbons in Alaska or
15 the geology of Alaska.

16 V. "BP Amoco" means BP Amoco p.l.c., its officers, directors, employees, agents and
17 representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions,
18 groups and affiliates controlled by BP Amoco p.l.c., and the respective directors, officers,
19 employees, agents, representatives, successors, and assigns of each.

20 W. "Commission" or "FTC" means the Federal Trade Commission.

21 X. "Construction Contract" means the new-build construction contract for the ARCO
22 Endeavour, the ARCO Resolution and the ARCO Discovery to which AMI Leasing, Inc. is a party.

23 Y. "Defendants" means BP Amoco, ARCO, individually and collectively and the
24 successor corporation created by the acquisition or merger of BP Amoco and ARCO.

25 Z. "Existing supply agreements" means those ANS crude oil supply agreements
26 identified in Schedule B, attached;

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- 1 AA. "FERC" means the Federal Energy Regulatory Commission.
- 2 BB. "FTC Action" means the action relating to *Federal Trade Commission v. BP Amoco,*
3 *p.l.c., and Atlantic Richfield Company*, Case No. 0000416-SI (Northern District of California), or
4 the FTC Administrative Action bearing that same name, docketed as FTC File Number 991-0192.
- 5 CC. "Hydrocarbons" means crude oil, natural gas, natural gas liquids and condensates.
- 6 DD. "Key ARCO Alaska Employees" means:
- 7 1. the following individuals if the Alaska Acquirer acquires pursuant to
8 Paragraph V of this Consent Decree or any final order entered in the FTC Action:
- 9 a. all persons employed by or working for ARCO Alaska, Inc.
10 Exploration and Land organization (ARCO organization code Z4000000) as
11 of March 15, 2000, whose responsibilities include analyzing or interpreting
12 geological data and information relating to Alaska, whether or not those
13 persons are located in Alaska;
- 14 b. all persons employed by or working for ARCO
15 knowledgeable about and presently working with miscible injectant
16 technology and research used for enhanced oil recovery and unconsolidated
17 sands technology and research, whether or not those persons are located in
18 Alaska; and
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1 c. individuals who are (a) either (I) independent contractors, or
2 (ii) employees of the oil and gas contractors that perform services for more
3 than one of the companies on the Alaska North Slope, and (b) whose jobs are
4 functionally equivalent to those individuals defined in this Paragraph
5 II.DD.1.a and b.

6 2. The individuals listed in Confidential Schedule C, attached, if Phillips
7 acquires pursuant to Paragraph IV of this Consent Decree.

8 EE. "PADD V" means the States of Alaska, Arizona, California, Hawaii, Nevada,
9 Oregon and Washington.

10 FF. "Person" means any individual, partnership, association, company or corporation.

11 GG. "Phillips" means Phillips Petroleum Company, a corporation organized, existing and
12 doing business under and by virtue of the laws of the State of Delaware, with its principal place of
13 business at Phillips Building, 422 South Keeler Street, Bartlesville, Oklahoma and its subsidiaries,
14 successors and assigns.

15 HH. "Spot Price" means the amount paid for a single delivery of crude oil as part of an
16 arms-length transaction as reported by Reuters, Telerate or Platt's Oilgram.

17 II. "TAPS" means the Trans-Alaska Pipeline System.

18 JJ. "Third Party Intellectual Property" means intellectual property, inventions,
19 technology, trademarks, trade names, trade secrets, patents, copyrights, know-how, research
20 material, technical information, management information systems, software and software
21 specifications, designs, drawings, plans (whether proposed or tentative, whether adopted, pending
22 or implemented), specifications, processes and quality control data that, as of the date the Consent
23 Agreement is signed, are owned by a party other than ARCO but are licensed to ARCO, excluding
24 any ARCO Alaska Company, and are primarily used in, for or connected with the ARCO Alaska
25 Businesses (excluding subparagraph 4 of the definition of ARCO Alaska Businesses).

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1 Defendants' receipt of the Alaska Approval Asset Consents with respect to all such rights, titles and
2 interests. PROVIDED FURTHER, HOWEVER, that defendants shall divest all such rights, titles,
3 and interests within six (6) months of the date of entry of this Consent Decree.

4 C. On or prior to the First Closing, as that term is defined in the Alaska MPSA, ARCO
5 and Phillips shall:

6 1. Enter into a transition services agreement, which is a part of the Alaska
7 MPSA, pursuant to which Defendants will provide Phillips with transition services that
8 Phillips may require in order to conduct the ARCO Alaska Assets and the ARCO Alaska
9 Businesses as currently conducted (the "Transition Services Agreement"), PROVIDED,
10 HOWEVER, that defendants shall use reasonable best efforts to carry out and bring to a
11 conclusion expeditiously the Transition Services Agreement;

12 2. Enter into a license agreement for the ARCO Intellectual Property pursuant
13 to which Defendants will grant to Phillips a fully paid-up, irrevocable, nonexclusive,
14 license, for use of the ARCO Intellectual Property in connection with the operation in any
15 manner by Phillips of the ARCO Alaska Businesses (excluding subparagraph 4 of the
16 definition thereof in Paragraph II.M.4) as existing as of the date the Consent Decree is
17 signed, subject to any restrictions on the transfer or license of any such ARCO Intellectual
18 Property arising under any agreement with a third party. Defendants shall cooperate with
19 Phillips and use reasonable best efforts to assist Phillips in obtaining a waiver, consent or
20 license, as applicable, for any such restricted ARCO Intellectual Property (or the benefits
21 equivalent thereto), the expense of any such license or equivalent benefits to be borne by
22 Phillips;

23 3. Enter into a license agreement for the ARCO Geoscience and Reservoir
24 Intellectual Property pursuant to which Defendants will grant to Phillips a fully paid-up,
25 irrevocable, non-exclusive license, for use of the ARCO Geoscience and Reservoir
26 Intellectual Property in connection with the operation in any manner by Phillips of the

1 ARCO Alaska Businesses (excluding subparagraph 4 of the definition thereof in Paragraph
2 II.M.4) as existing as of the date the Consent Agreement is signed, subject to any
3 restrictions on the transfer or license of any such ARCO Geoscience and Reservoir
4 Intellectual Property arising under any agreement with a third party and subject to the rights
5 of any third parties under licenses previously granted by ARCO. Defendants shall cooperate
6 with Phillips and use reasonable best efforts to assist Phillips in obtaining a waiver, consent
7 or license, as applicable, for any such restricted ARCO Geoscience and Reservoir
8 Intellectual Property (or the benefits equivalent thereto), the expense of any such license or
9 equivalent benefits to be borne by Phillips.

10 4. Enter into a license agreement pursuant to which Phillips will grant to
11 Defendants a fully paid-up, irrevocable, non-exclusive license for use of the ARCO Patents
12 worldwide. Such license will permit sublicenses to third parties.

13 D. Defendants shall cooperate with Phillips and use reasonable best efforts to assist
14 Phillips in obtaining a license for any Third Party Intellectual Property (or the benefits equivalent
15 thereto), the expense of any such license or equivalent benefits to be borne by Phillips.

16 E. Defendants shall use reasonable best efforts expeditiously to secure the consents or
17 waivers of private entities required for divestiture of the Alaska Approval Assets prior to their
18 divestiture and to secure prompt Alaska Approval Asset Consents.

19 F. Defendants shall comply with all of their obligations under the long-term crude oil
20 supply contract between BP Amoco and Paramount Petroleum Corporation (Paramount Contract
21 Number 103505).

22 G. For a period of ten years after this Consent Decree is entered, Defendants shall not,
23 without providing thirty (30) days' advance written notification to the plaintiffs, acquire, directly or
24 indirectly, through subsidiaries or otherwise, any ownership, leasehold, or other interest, in whole
25 or in part, in any of the assets required to be divested pursuant to this Consent Decree.
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1 H. The purpose of the divestiture of the ARCO Alaska Assets and ARCO Beluga, Inc.
2 is to ensure the continued use of the ARCO Alaska Assets and ARCO Beluga, Inc in the same
3 businesses in which they were engaged at the time of the announcement of the merger and to
4 remedy the lessening of competition as alleged in the Complaint filed in this action.

5 **V. APPOINTMENT OF TRUSTEE**

6 A. If Defendants have not divested or caused to be divested, absolutely and in good
7 faith the ARCO Alaska Assets and ARCO Beluga, Inc. to Phillips within the time periods required
8 by this Consent Decree, and if the FTC has not appointed a trustee, the plaintiffs may ask the Court
9 to appoint a trustee to divest or cause to be divested the ARCO Alaska Assets and ARCO Beluga,
10 Inc., and to obtain the Alaska Approval Asset Consents and divest the Alaska Approval Assets.

11 B. If plaintiffs ask the Court to appoint a trustee pursuant to Paragraph V.A. of this
12 Consent Decree, subject to the approval of this Court, plaintiffs shall select a person or persons as
13 trustee, subject to the consent of Defendants, which consent shall not be unreasonably withheld.
14 The trustee shall be a person with experience and expertise in acquisitions and divestitures. If
15 Defendants have not opposed, in writing, including the reasons for opposing, the selection of any
16 proposed trustee within ten (10) days after receipt of written notice by the plaintiffs of the identity
17 of any proposed trustee, Defendants shall be deemed to have consented to the selection of the
18 proposed trustee. The trustee may be the same person or entity as any trustee appointed pursuant to
19 Attachment A.

20 C. Subject to the prior approval of the plaintiffs, the trustee shall have the exclusive
21 power and authority to divest the ARCO Alaska Assets and ARCO Beluga, Inc., to obtain the
22 Alaska Approval Consents, all on such terms and conditions as are necessary to comply with the
23 requirements of this Consent Decree, to comply with all applicable laws, and to effectuate the
24 remedial purposes of this Consent Decree.

1 D. Within ten (10) days after appointment of the trustee, Defendants shall execute a
2 trust agreement that, subject to the prior approval of the Court, transfers to the trustee all rights and
3 powers necessary to permit the trustee to effect the divestiture required by this Consent Decree.

4 E. The trustee shall have twelve (12) months from the date the trust agreement is
5 approved to accomplish the divestiture required by this Consent Decree, which shall be subject to
6 the prior approval of the plaintiffs. If, however, at the end of the twelve-month period, the trustee
7 has submitted a plan of divestiture or believes the divestiture can be achieved within a reasonable
8 time, the divestiture period may be extended by the Court.

9 F. The trustee shall have full and complete access, subject to any legally recognized
10 privilege, to the personnel, books, records and facilities related to the assets to be divested or to any
11 other relevant information, as the trustee may request. Defendants shall develop such financial or
12 other information as the trustee may request and shall cooperate with the trustee. Defendants shall
13 take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any
14 delays in the divestitures caused by Defendants shall extend the time for divestiture under this
15 Paragraph in an amount equal to the delay, as determined by the Court.

16 G. The trustee shall use his or her best efforts to negotiate the most favorable price and
17 terms available for the divestitures, but shall divest expeditiously at no minimum price. The
18 divestitures shall be made in the manner and to a purchaser as set out in this Consent Decree;
19 provided, however, if the trustee receives bona fide offers from more than one Acquirer, and if the
20 plaintiffs determine to approve more than one such Acquirer, the trustee shall divest to the
21 purchaser or purchasers selected by Defendants from among those approved by the plaintiffs;
22 PROVIDED, HOWEVER that defendants shall select such entity within five (5) days of receiving
23 written notification of plaintiffs' approval.

24 H. The trustee shall select one or more Acquirer(s) and shall notify the plaintiffs of
25 his/her selection at least thirty days in advance of sale of the ARCO Alaska Assets and ARCO
26 Beluga, Inc.

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1 I. The trustee shall serve, without bond or other security, at the cost and expense of
2 Defendants, on such reasonable and customary terms and conditions as the Court may set. The
3 trustee shall have the authority to employ, at the cost and expense of Defendants, such consultants,
4 accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives
5 and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The
6 trustee shall account for all monies derived from the divestitures and all expenses incurred. After
7 approval by the Court of the account of the trustee, including fees for his or her services, all
8 remaining monies shall be paid at the direction of the Defendants, and the trustee's power shall be
9 terminated. The trustee's compensation shall be based, at least in significant part, on a commission
10 arrangement contingent on the trustee's divesting the assets to be divested.

11 J. Defendants shall indemnify the trustee and hold the trustee harmless against any
12 losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the
13 performance of the trustee's duties, including all reasonable fees of counsel and other expenses
14 incurred in connection with the preparation for, or defense of any claim, whether or not resulting in
15 any liability, except to the extent that such liabilities, losses, damages, claims or expenses result
16 from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

17 K. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be
18 appointed in the same manner as provided in Section V(B) of this Consent Decree.

19 L. The trustee shall have no obligation or authority to operate or maintain the assets to
20 be divested.

21 M. The trustee, whether appointed by the FTC or the plaintiffs, shall report in writing to
22 the parties every sixty (60) days concerning the trustee's efforts to accomplish the divestiture.

23 N. The appointment of a trustee, or failure to appoint a trustee, shall not preclude the
24 plaintiffs from seeking any relief available to them for Defendants' failure to comply with this
25 Decree.

26

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1 O. In the event that the trustee determines that he or she is unable to divest or cause to
2 be divested the ARCO Alaska Assets or ARCO Beluga, Inc., or to obtain the Alaska Approval
3 Consents and divest the Alaska Approval Assets in a manner consistent with this Decree, the trustee
4 may divest assets similar and corresponding to the ARCO Alaska Assets or ARCO Beluga, Inc. as
5 necessary to achieve the remedial purposes of this Decree.

6 P. Plaintiffs may, on their own initiative or at the request of the trustee, request that the
7 court issue such additional orders as may be necessary or appropriate to accomplish the divestiture.

8 VI. PRESERVATION OF ASSETS AND PERSONNEL

9 A. Until the divestiture has been accomplished, and regardless of whether the
10 Commission enters an order finally approving the Agreement Containing Consent Order and
11 Decision and Order in the FTC action, Defendants shall comply with and plaintiffs may enforce the
12 terms of this Consent Decree and Attachment A (Asset Maintenance Trustee, Hold Separate Trustee
13 and Hold Separate Provisions).

14 B. Pending the divestiture of the ARCO Alaska Assets and ARCO Beluga, Inc.
15 Defendants shall take such actions as are reasonably necessary to maintain the viability and
16 marketability of the ARCO Alaska Assets and ARCO Beluga, Inc. and to prevent the destruction,
17 removal, wasting, deterioration, sale, disposition, transfer or impairment of such assets except for
18 ordinary wear and tear and as would otherwise occur in the ordinary course of business.

19 C. From the date Defendants stipulate to entry of the Consent Decree and Final
20 Judgment until the divestitures are completed pursuant to the terms of this Consent Decree,
21 Defendants shall take, or cause to be taken, reasonable steps, including implementing appropriate
22 incentive plans (such as vesting or crediting of all current and accrued benefits and pensions to
23 which the employees are entitled) and paying bonuses, to cause ARCO Alaska Employees to accept
24 offers of employment from Phillips, or the Alaska Acquirer, as applicable.

25 D. For a period of two (2) years following the date of entry of this Consent Decree and
26 Final Judgment, Defendants shall not solicit for employment any ARCO Alaska Employee

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1 employed by Phillips or the Alaska Acquirer, as applicable, unless and until such employee's
2 employment by Phillips, or the Alaska Acquirer if applicable, has been terminated.

3 E. For a period of three (3) years following the date of entry of this Consent Decree and
4 Final Judgment, Defendants shall not solicit for employment any Key ARCO Alaska Employees
5 employed by Phillips or the Alaska Acquirer, as applicable, unless and until such employee's
6 employment has been terminated by Phillips or the Alaska Acquirer, as applicable.

7 F. Defendants shall provide, cause to be provided, or reimburse Phillips or the Alaska
8 Acquirer, as applicable, for providing to Key ARCO Alaska Employees the following financial
9 incentives to continue in their employment positions or to accept employment with the Phillips or
10 the Alaska Acquirer, as applicable:

11 1. Vesting of all pension benefits current and accrued as of the date of transition
12 to employment with Phillips or the Alaska Acquirer after the relevant divestiture pursuant to this
13 Consent Decree; and

14 2. Payment of a bonus equal to no less than thirty-five (35) percent of the base
15 salary together with the amount of any social security, unemployment and similar taxes
16 imposed upon the employer by applicable law with respect to such bonus for each Key
17 ARCO Alaska Employee (in addition to any other bonus or incentive payment made to Key
18 ARCO Alaska Employees during the normal course of business). This bonus payment shall
19 be conditional upon the acceptance of position with Phillips or the Alaska Acquirer and
20 remaining employed with Phillips or the Alaska Acquirer for a period of at least twelve (12)
21 months. One-half of the bonus will be paid upon Phillips or the Alaska Acquirer's hiring of
22 the employee and the remainder will be paid after twelve (12) months of employment with
23 Phillips or the Alaska Acquirer.

1 **VII. CHANGE IN DEFENDANTS**

2 Defendants shall notify plaintiffs in writing at least thirty (30) days prior to any proposed
3 change in the Defendants that may affect compliance obligations arising out of this Consent Decree,
4 such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the
5 creation of dissolution of subsidiaries, or any other change in the corporation that may affect
6 compliance obligations arising out of this Consent Decree.

7 **VIII. COMPLIANCE**

8 A. Within thirty (30) days after the date in which a final order is entered in the
9 FTC Action, or sixty (60) days after entry of this Consent Decree, whichever is later, Defendants
10 shall submit a verified compliance report to the plaintiffs, which shall be treated as confidential.
11 Defendants shall submit additional compliance reports every sixty (60) days thereafter until the
12 divestiture has been completed or a trustee is appointed pursuant to the provisions of Section V of
13 this Consent Decree. Such reports shall be in writing and each such report shall set forth in detail
14 the manner and form in which they intend to comply, are complying, and have complied with the
15 terms of this Consent Decree. Defendants shall include in their compliance reports, among other
16 things that are required from time to time, a full description of the efforts being made to comply
17 with this Consent Decree, including a description of all substantive contacts or negotiations relating
18 to the divestitures and the status of necessary approvals. Defendants shall include in their
19 compliance reports copies, other than of privileged materials, of all written communications to and
20 from such parties, all internal memoranda, and all reports and recommendations concerning the
21 divestitures and approvals. Defendants shall also submit a final compliance report, which shall
22 include a statement that the divestitures have been accomplished in the manner approved by the
23 plaintiffs and the dates the divestitures were accomplished.

24 B. One year from the date this Order becomes final and annually thereafter until the
25 Order terminates, Defendants shall file a verified written report with the plaintiffs setting forth in
26 detail the manner and form in which they have complied and are complying with Paragraphs IV.G

BP CONS 0002199

1 of this Order.

2 C. For the purpose of determining or securing compliance with this Consent Decree and
3 Final Judgment and Attachment A, and subject to any legally recognized privilege, from time to
4 time, duly authorized representatives of the plaintiffs, including consultants and other persons, upon
5 the written request of the plaintiffs, and on five (5) days' notice to Defendants, shall be permitted:

6 1. access, during office hours and in the presence of counsel, to all facilities
7 necessary to inspect and copy all books, ledgers, accounts, correspondence,
8 memoranda, and other records and documents in the possession or under the control
9 of Defendants relating to any matters contained in this Consent Decree and Final
10 Judgment; and

11 2. subject to reasonable convenience of Defendants and without restraint or
12 interference from them, to interview directors, officers, employees, and agents of
13 Defendants, who may have counsel present, regarding any such matters.

14 D. No confidential information or documents provided by Defendants to the plaintiffs
15 pursuant to this Consent Decree shall be divulged by any representative of the plaintiffs to any
16 person other than a duly authorized representative of the Attorneys General of California, Oregon,
17 or Washington, except for the purpose of securing compliance with this Consent Decree and Final
18 Judgment, or as otherwise required by law. PROVIDED HOWEVER, that the plaintiffs may share
19 such information and documents in confidence with the FTC.

20 E. If at the time information or documents are furnished by Defendants to the plaintiffs,
21 Defendants represent and identify in writing the portions of any such information or documents for
22 which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil
23 Procedure, and Defendants mark each pertinent page of such documents, "Confidential" or "Subject
24 to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the
25 plaintiffs shall give ten (10) days' notice to the marking defendant prior to divulging such material

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1 in any legal proceeding. However, in proceedings to enforce compliance with this Consent Decree,
2 the documents shall be filed under seal and shall be subject to the protective order entered in this
3 matter.

4 IX. RETENTION OF JURISDICTION

5 Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this
6 Consent Decree to apply to this Court at any time for such further orders and directions as may be
7 necessary or appropriate for the construction, implementation, or modification of any of the
8 provisions of this Consent Decree, for the enforcement of compliance herewith, and for sanctions
9 for any violations hereof.

10 X. OTHER RELIEF

11 A. Plaintiffs shall receive their attorneys' fees and costs in the amount of One Million
12 Two Hundred Eight Thousand One Hundred Twelve Dollars and fifty-five cents, (\$1,208,112.55)
13 payable within ten (10) business days of entry of this Consent Decree. Payment shall be made to
14 the State of Washington, Office of the Attorney General, attention Tina E. Kondo. The State of
15 Washington will forward to California and Oregon their shares of that sum.

16 B. Oregon's share of the fees and costs shall be deposited into the Oregon Department
17 of Justice's Consumer Protection and Education Account, for use as authorized by ORS 180.095.
18 Washington's share of the fees and costs shall be deposited into the antitrust revolving fund, for use
19 in antitrust enforcement.

20 C. If any plaintiff or plaintiffs successfully bring(s) an action to enforce the provisions
21 of this Consent Decree, Defendants shall reimburse plaintiff or plaintiffs for all reasonable costs
22 and attorneys' fees associated with bringing such enforcement action.

23 D. All notices Defendants are required to provide to plaintiffs under this Consent
24 Decree shall be provided to each plaintiff separately and notice provided to one plaintiff shall not be
25 deemed to satisfy Defendants' obligations of notice to the other plaintiffs.

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XI. PUBLIC INTEREST

Entry of this Consent Decree is in the public interest.

XII. NOTIFICATIONS

If notices are issued pursuant to this Consent Decree they shall be issued to the following:

To the State of California:

Barbara Motz
Supervising Deputy Attorney General
300 S. Spring Street Suite 500
Los Angeles, CA 90013
(213) 897-2691

To the State of Oregon:

Andy Aubertine
Assistant Attorney General
1162 Court Street NE
Salem OR 97310
(503) 378-4732

To the State of Washington:

Tina E. Kondo
Antitrust Division Chief
900 Fourth Avenue, Suite 2000
Seattle, WA 98164
(206) 464-6293

BP CONS 0002202

1 To the Defendants:

2 Robert M. Osgood, Esq.
3 Sullivan & Cromwell
4 125 Broad Street
5 New York, NY 10004
6 (212) 558-3710

7 and

8 Peter B. P. Bevan, Esq.
9 Group General Counsel
10 BP Amoco p.l.c.
11 1 Finsbury Circus
12 London EC2M 7BA
13 England

14 **XIII. TERMINATION**

15 This Consent Decree shall expire ten years from the date of its entry.

16 DATED this ____ day of APR 17 2000, 2000.

17 **SUSAN ILLSTON**

18

Honorable Susan Illston
19 UNITED STATES DISTRICT JUDGE
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BP CONS 0002203

1 FOR THE STATE OF CALIFORNIA:

2 BILL LOCKYER

Attorney General of the State of California

3 PETER SIGGINS

Chief Deputy Attorney General

4 RICHARD M. FRANK

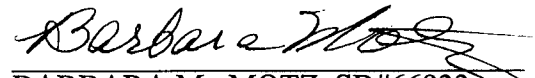
Chief Assistant Attorney General

5 THOMAS GREENE

Senior Assistant Attorney General

6 NATALIE S. MANZO, SB#155655

Deputy Attorney General

8
9 

BARBARA M. MOTZ, SB#66933

10 Supervising Deputy Attorney General

300 South Spring Street, Suite 5212

11 Los Angeles, California 90013

(213) 897-2691

1 **FOR THE STATE OF OREGON:**

2 **HARDY MYERS**

3 Attorney General of Oregon

4

5 
ANDREW E. AUBERTINE, OSB # 83013

6 Assistant Attorney General

7 1162 Court Street NE

8 Salem OR 97310

9 (503) 378-4732

10 *appearing pro hac vice*

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BP CONS 0002205

1 **FOR THE STATE OF WASHINGTON:**

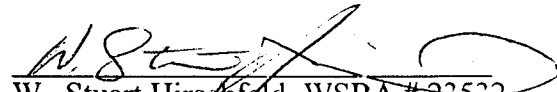
2 **CHRISTINE O. GREGOIRE**

3 **Attorney General of Washington State**

4 

5 Tina E. Kondo, WSBA #12101

6 Antitrust Division Chief, Sr. AAG

7 

8 W. Stuart Hirschfeld, WSBA # 23532

9 Assistant Attorney General

10 900 Fourth Avenue Suite 2000

11 Seattle, WA 98164

12 (206) 464-6293

13 *appearing pro hac vice*

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FOR BP AMOCO p.l.c.


EDMUND JOHN PHILLIP BROWNE
CHIEF EXECUTIVE OFFICER


Robert M. Osgood, Esq
Sullivan & Cromwell
Counsel for BP Amoco p.l.c.

appearing pro hac vice

BP CONS 0002207

CONSENT DECREE AND FINAL
JUDGMENT

28

ATTORNEY GENERAL OF WASHINGTON
900 Fourth Avenue, Suite 2000
Seattle, WA 98164
(206) 464-7744

ROM : ARNOLDPORTER
ROM ARCO LAW
ROM : ARNOLDPORTER

FAX NO. : 2029425084

(TUE) 04.11'00 11:16/ST. 11:16/NO. 3561839620 P 2

FAX NO. : 2029425084

Apr. 11 2000 05:56PM P2

Apr. 11 2000 12:12PM P2

1 FOR ATLANTIC RICHFIELD COMPANY:
2
3
4 
5 MIKE R. BOWLIN
6 CHIEF EXECUTIVE OFFICER
7
8 Michael N. Sohn
9 Counsel for Atlantic Richfield Company
10
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BP CONS 0002208

CONSENT DECREE AND FINAL

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ATTORNEY GENERAL OF WASHINGTON

04/11/00 TUE 14:50 [TX/RX NO 5938]

1 FOR ATLANTIC RICHFIELD COMPANY:

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3

4

5

MIKE R. BOWLIN
CHIEF EXECUTIVE OFFICER

6

7

8


~~Michael N. Sohn~~ Cathy Hoffman admitted pro hoc vice
Counsel for Atlantic Richfield Company

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BP CONS 0002209

ATTACHMENT A

ASSET MAINTENANCE TRUSTEE, HOLD SEPARATE TRUSTEE AND HOLD SEPARATE PROVISIONS

I.

As used in this Attachment A, the following additional definitions shall apply:

1. "Alaska Asset Maintenance Trustee" means the trustee appointed pursuant to Paragraph II of this Attachment.
2. "Alaska Held Separate Businesses" means the ARCO Alaska Assets, which includes the Alaska Approval Assets, and all of ARCO's interests in ARCO Beluga, Inc.
3. "Alaska Hold Separate Trustee" means the trustee appointed pursuant to Paragraph III of this Attachment.
4. "Divestiture Trustee" means the trustee appointed by the Court pursuant to Paragraph V of the Consent Decree.
5. "Hold Separate Period" means the period of time beginning, for the Alaska Held Separate Businesses, ten (10) days after Defendants fail to complete the divestiture to Phillips within the time required by Paragraph IV. of the Consent Decree and shall terminate three (3) business days after the divestiture of the ARCO Alaska Assets pursuant to Paragraphs IV. or V. of the Consent Decree.
6. "Material Confidential Information" means competitively sensitive or proprietary information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, all customer lists, price lists, marketing methods, patents, technologies, processes, know-how, or other trade secrets.

PROVIDED, HOWEVER, any term used in this Attachment that is not otherwise defined in this Paragraph I has the same meaning as defined in the Consent Decree.

II.

IT IS FURTHER ORDERED that:

1. After the Court approves this Consent Decree, if the FTC is not taking affirmative steps to appoint an Alaska Asset Maintenance Trustee, and if the Plaintiffs have notified the FTC and Defendants of their intention to appoint an Asset Maintenance Trustee, the Plaintiffs may apply to the Court for the appointment of an Alaska Asset Maintenance Trustee to ensure that Defendants comply with their obligations relating to the ARCO Alaska Assets, Alaska Approval Assets, ARCO Beluga, Inc., and Alaska Asset Approval Consents under the terms of Paragraph VI in the Consent Decree. Such application will not be made earlier than forty-five (45) days of entry of the FTC's Order to Hold Separate and Maintain Assets, or fifteen (15) days after the Plaintiffs' notification to the FTC and Defendants, whichever is later. PROVIDED, HOWEVER, it is the intent of the parties that only one Asset Maintenance Trustee be appointed to enforce the provisions of this consent decree and the provisions of the consent agreement signed in the FTC Action. The FTC's efforts to appoint an Asset Maintenance Trustee shall take precedence.
2. Defendants shall consent to the following terms and conditions regarding the powers, duties, authorities and responsibilities of the Alaska Asset Maintenance Trustee appointed pursuant to Paragraph II.1:
 - a. Plaintiffs shall select the Alaska Asset Maintenance Trustee, subject to the consent of Defendants, which consent shall not be unreasonably withheld. If Defendants have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after receiving written notice by Plaintiffs to Defendants of the identity of any proposed trustee, Defendants shall be deemed to have consented to the selection of the proposed trustee.
 - b. The Alaska Asset Maintenance Trustee shall have the power and authority to monitor Defendants' compliance with the terms of Paragraph VI in the Consent Decree.
 - c. Within ten (10) days after receipt of written notice of the appointment of the Alaska Asset Maintenance Trustee, Defendants shall execute a trust agreement that, subject to the prior approval of the Plaintiffs, confers on the Alaska Asset Maintenance Trustee all the rights and powers necessary to permit the Alaska Asset Maintenance Trustee to monitor Defendants' compliance with the terms of this Attachment and of any corresponding terms in the Consent Decree including, but not limited to, the terms in Paragraphs IV.B, IV.C, IV.D, IV.H and VI.

- d. The Alaska Asset Maintenance Trustee shall serve for such time as is necessary to monitor Defendants' compliance with the provisions of Paragraph VI of the Consent Decree.
- e. The Alaska Asset Maintenance Trustee shall have full and complete access, subject to any legally recognized privilege of Defendants, to Defendants' personnel, books, records, documents, facilities and technical information relating to the ARCO Alaska Assets, ARCO Beluga, Inc., ARCO and the Alaska Approval Assets, or to any other relevant information, as the Alaska Asset Maintenance Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the ARCO Alaska Assets, ARCO Beluga, Inc. and the Alaska Approval Assets. Defendants shall cooperate with any reasonable request of the Alaska Asset Maintenance Trustee. Defendants shall take no action to interfere with or impede the Alaska Asset Maintenance Trustee's ability to monitor Defendants' compliance with this Attachment and the Consent Decree.
- f. The Alaska Asset Maintenance Trustee shall serve, without bond or other security, at the expense of the Defendants, on such reasonable and customary terms and conditions as Plaintiffs may request and the Court may approve. The Alaska Asset Maintenance Trustee shall have the authority to employ, at the expense of Defendants, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Alaska Asset Maintenance Trustee's duties and responsibilities.
- g. Defendants shall indemnify the Alaska Asset Maintenance Trustee and hold the Alaska Asset Maintenance Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Alaska Asset Maintenance Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of, any claim whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Alaska Asset Maintenance Trustee.
- h. If the Plaintiffs determine that the Alaska Asset Maintenance Trustee has ceased to act or failed to act diligently, the Plaintiffs may appoint a substitute trustee in the same manner as provided in Paragraph II.1 of this Attachment.
- i. The Plaintiffs may on their own initiative or at the request of the Alaska Asset Maintenance Trustee apply to the Court for such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Attachment and the Consent Decree.

- j. The Alaska Asset Maintenance Trustee shall evaluate information submitted to it by Defendants and Phillips with respect to the efforts of Phillips and Defendants to obtain the Alaska Approval Asset Consents. The Alaska Asset Maintenance Trustee shall have the authority to take reasonable measures to expedite the Alaska Approval Asset Consents. The Alaska Asset Maintenance Trustee shall have the authority to take reasonable measures to expedite the divestiture to Phillips of individual assets or groups of assets within the ARCO Alaska Approval Assets consistent with the purposes of this Attachment and the Consent Decree. Such measures shall be made with the consent of Defendants, which consent shall not be unreasonably withheld, and with written notice to Defendants, the Plaintiffs and Phillips. The Alaska Asset Maintenance Trustee shall report in writing to Plaintiffs, concerning compliance by Defendants with the provisions of Paragraph VI of the Consent Decree, within twenty (20) days from the date of appointment and every thirty (30) days until the Defendants have complied with the provisions of Paragraph VI of the Consent Decree. Such report shall include at least the following:
1. whether Defendants have given the Alaska Asset Maintenance Trustee reports and access to all information and records pursuant to Paragraph II.2.e of this Attachment;
 2. what steps Defendants and Phillips have taken to secure the Alaska Approval Asset Consents including, but not limited to, timetables, status reports, what documents have been filed, what documents are required to be filed, plans by Defendants to comply with this Attachment and the Consent Decree, and information about problems or concerns of the regulatory bodies, Defendants, Phillips and third parties;
 3. whether, in the Alaska Asset Maintenance Trustee's opinion, Defendants are making a good faith effort to comply expeditiously with this Attachment and the Consent Decree and whether and when the Alaska Approval Assets Consents are likely to be obtained;
 4. whether Defendants have maintained the ARCO Alaska Assets and the Alaska Approval Assets as required by Paragraph IV and VI of the Consent Decree;
 5. any other information that may assist Plaintiffs in determining whether Defendants are complying with the terms of this Attachment and Consent Decree.
3. The Alaska Asset Maintenance Trustee may be the same person appointed as the Alaska Hold Separate Trustee pursuant to Paragraph III of this Attachment, and as the Divestiture Trustee pursuant to Paragraph V.A. of the Consent Decree in this matter.

III.

IT IS FURTHER ORDERED that:

1. During the Hold Separate Period, Defendants shall hold the Alaska Held Separate Businesses as a separate and independent business except to the extent that Defendants must exercise direction and control over the Alaska Held Separate Businesses to assure compliance with this Attachment and Consent Decree, and except as otherwise provided in this Attachment, and shall vest the Alaska Held Separate Businesses with all powers and authorities necessary to conduct business. The purpose of this Paragraph is: (i) to preserve the Alaska Held Separate Businesses as viable, competitive, and ongoing businesses, independent of Defendants, until their complete divestiture is achieved; (ii) to assure that no Material Confidential Information is exchanged between Defendants and the Alaska Held Separate Businesses; and (iii) to prevent interim harm to competition pending divestiture and other relief.
2. If the FTC is not taking affirmative steps to appoint an Hold Separate Trustee within fifteen (15) days of Defendants' failure to complete the divestitures to Phillips within the times required by this Consent Decree, the Plaintiffs may apply to the Court for the appointment of an Alaska Hold Separate Trustee, subject to the consent of Defendants, which consent shall not be unreasonably withheld, to ensure that the requirements of Paragraph III of this Attachment and Paragraph VI of this Consent Decree are satisfied. If Defendants have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after receipt of written notice by the Plaintiffs to Defendants of the identity of any proposed trustee, Defendants shall be deemed to have consented to the selection of the proposed trustee. PROVIDED, HOWEVER, it is the intent of the parties that only one Hold Separate Trustee be appointed to enforce the provisions of this consent decree and the provisions of the consent agreement signed in the FTC Action. The FTC's efforts to appoint an Hold Separate Trustee shall take precedence.
3. Defendants shall consent to the following procedures with regard to the Alaska Hold Separate Trustee:
 - a. The Alaska Hold Separate Trustee shall have the power and authority to monitor Defendants' compliance with the terms of this Attachment and the Consent Decree.
 - b. Within ten (10) days after appointment of the Alaska Hold Separate Trustee, Defendants shall execute a trust agreement that, subject to the prior approval of Plaintiffs, confers on the Alaska Hold Separate Trustee all the rights and powers necessary to permit the Alaska Hold Separate Trustee to monitor Defendants'

compliance with the terms of this Attachment and of any corresponding terms in the Consent Decree including, but not limited to, Paragraphs IV and VI of the Consent Decree.

- c. The Alaska Hold Separate Trustee shall serve until the termination of the Hold Separate Period.
- d. The Alaska Hold Separate Trustee shall have full and complete access, subject to any legally recognizable privilege of Defendants, to Defendants' personnel, books, records, documents, facilities and technical information relating to the Alaska Held Separate Businesses or to any other relevant information, as the Alaska Hold Separate Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the Alaska Held Separate Businesses. Defendants shall cooperate with any reasonable request of the Alaska Hold Separate Trustee. Defendants shall take no action to interfere with or impede the Alaska Hold Separate Trustee's ability to monitor Defendants' compliance with this Attachment and the Consent Decree.
- e. The Alaska Hold Separate Trustee shall serve, without bond or other security, at the expense of the Defendants, on such reasonable and customary terms and conditions as the Plaintiffs may set. The Alaska Hold Separate Trustee shall have the authority to employ, at the expense of Defendants, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Alaska Hold Separate Trustee's duties and responsibilities.
- f. Defendants shall indemnify the Alaska Hold Separate Trustee and hold the Alaska Hold Separate Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Alaska Hold Separate Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of, any claim whether or not resulting in any liability, except to the extent that such liabilities, losses damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Alaska Hold Separate Trustee.
- g. If Plaintiffs determines that the Alaska Hold Separate Trustee has ceased to act or failed to act diligently, the Plaintiffs may appoint a substitute trustee in the same manner as provided in Paragraph III of this Attachment.
- h. Plaintiffs may on their own initiative or at the request of the Alaska Hold Separate Trustee apply to the Court for such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of Paragraph III of this Attachment, and of any corresponding terms in the Consent Decree

including, but not limited to, Paragraphs IV and VI of the Consent Decree.

- i. The Alaska Hold Separate Trustee shall report in writing to the Plaintiffs concerning compliance by Defendants with the applicable provisions of this Attachment and the Consent Decree, within twenty (20) days from the date of appointment and every thirty (30) days until the Defendants have complied with the applicable provisions of this Attachment and the Consent Decree. Such report shall include at least the following:
 1. whether Defendants have given the Alaska Hold Separate Trustee reports and access to all information and records pursuant to Paragraph III.3.d of this Attachment;
 2. whether Defendants have complied with the requirements of Paragraph III of this Attachment, and of any corresponding terms in the Consent Decree including, but not limited to, Paragraphs IV and VI of the Consent Decree; and
 3. any other information that may assist the Plaintiffs in determining whether Defendants are complying with the applicable terms of this Attachment and the Consent Decree.
4. The Alaska Hold Separate Trustee may be the same person appointed as the Alaska Asset Maintenance Trustee pursuant to Paragraph II of this Attachment and as the Divestiture Trustee pursuant to Paragraph V.A. of the Consent Decree.
5. Defendants shall, subject to any applicable obligations of ARCO Alaska, Inc., under the Alaska MSPA, establish the following with regard to the Alaska Held Separate Businesses:
 - a. The Alaska Held Separate Businesses shall be staffed with sufficient employees to maintain the viability and competitiveness of the Alaska Held Separate Businesses. Defendants shall, within ten (10) days of the start of the Hold Separate period, appoint, subject to the approval of the Alaska Hold Separate Trustee, three (3) individuals from among the current employees of Alaska Held Separate Businesses working in the management, exploration and production, transportation, regulatory, marketing, and financial operations of the Alaska Held Separate Businesses to manage and maintain the Alaska Held Separate Businesses ("Alaska Management Team"). The Alaska Management Team, in its capacity as such, shall report directly and exclusively to the Alaska Hold Separate Trustee, and shall manage the Alaska Held Separate Businesses independently of the management of Defendants. The Alaska Management Team shall not be involved in any way in the other operations of the businesses of Defendants, other than being kept informed on all issues dealing with the Alaska Held Separate

Businesses during the Hold Separate Period.

- b. Defendants shall not change the composition of the management of the Alaska Held Separate Businesses except that the Alaska Management Team shall be permitted to remove management employees for cause subject to approval of the Alaska Hold Separate Trustee. Defendants shall not change the composition of the Alaska Management Team except that the Alaska Hold Separate Trustee shall have the power to remove members of the Alaska Management Team for cause and to require Defendants to appoint replacement members to the Alaska Management Team in the same manner as provided in Paragraph III.5.a of this Attachment.
- c. The Alaska Hold Separate Trustee shall have responsibility, through the Alaska Management Team, for managing the Alaska Held Separate Businesses consistent with the terms of this Attachment; for maintaining the independence of the Alaska Held Separate Businesses consistent with the terms of this Attachment and the Consent Decree; and for assuring Defendants' compliance with their obligations pursuant to this Attachment.
- d. Employees of the Alaska Held Separate Businesses shall include: (i) all personnel employed by the Alaska Held Separate Businesses as of the date the Federal Trade Commission accepts the Consent Agreement in FTC File Number 991-0192 for public comment; and (ii) those persons hired from other sources. The Alaska Management Team, with the approval of the Alaska Hold Separate Trustee, shall have the authority to replace employees who have otherwise left their positions with the Alaska Held Separate Businesses since March 1, 2000. To the extent that employees of any of the Alaska Held Separate Businesses leave the Alaska Held Separate Businesses prior to the divestiture of the Alaska Held Separate Businesses, the Alaska Management Team, with the approval of the Alaska Hold Separate Trustee, may replace the departing employees of the Alaska Held Separate Businesses with persons who have similar experience and expertise.
- e. Defendants shall, within ten (10) days of the start of the Hold Separate Period, cause the Alaska Hold Separate Trustee, each member of the Management Team, and each supervisory employee of the Alaska Held Separate Businesses to submit to the Plaintiffs a signed statement that the individual will maintain the confidentiality required by the terms and conditions of this Attachment. These individuals must retain and maintain all Material Confidential Information relating to the Alaska Held Separate Business on a confidential basis and, except as is permitted by this Attachment, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of Defendants' businesses other than the Alaska Held Separate Businesses. These

persons shall not be involved in any way in the management, sales, marketing, and financial operations of the competing products of Defendants.

- f. Defendants shall, within ten (10) days of the start of the Hold Separate Period, establish written procedures, to be approved by the Alaska Hold Separate Trustee, covering the management, maintenance, and independence of the Alaska Held Separate Businesses consistent with the provisions of this Attachment.
- g. Defendants shall, within ten (10) days of the start of the Hold Separate Period, circulate to employees of the Alaska Held Separate Businesses a notice of this Attachment, in the form attached as Exhibit 1 to this Attachment A.
- h. The Alaska Hold Separate Trustee, if one is appointed, and the Alaska Management Team shall serve, without bond or other security, at the cost and expense of Defendants, on reasonable and customary terms commensurate with the person's experience and responsibilities. Defendants shall indemnify the Alaska Hold Separate Trustee and the Alaska Management Team, and hold the Alaska Hold Separate Trustee and the Alaska Management Team harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Alaska Hold Separate Trustee's or the Alaska Management Team's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for or defense of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the Alaska Hold Separate Trustee or the Alaska Management Team.
- i. Defendants shall provide the Alaska Held Separate Businesses with sufficient working capital to operate the Alaska Held Separate Businesses at least at current rates of operation, to meet all capital calls with respect to the Alaska Held Separate Businesses and to carry on, at least at their scheduled pace, all capital projects for the Alaska Held Separate Businesses that are ongoing or approved as of March 1, 2000. In addition, Defendants shall continue, at least at their scheduled pace, any additional expenditures for the Alaska Held Separate Businesses authorized prior to the date the Consent Agreement was signed by Defendants. During the Hold Separate Period, Defendants shall make available for use by the Alaska Held Separate Businesses funds sufficient to perform all necessary routine maintenance to, and replacements of, assets of the Alaska Held Separate Businesses. Defendants shall provide the Alaska Held Separate Businesses with such funds as are necessary to maintain the viability, competitiveness, and marketability of the Alaska Held Separate Businesses until the date the divestiture is completed, provided the Alaska Held Separate Businesses may not assume any new long-term debt except as necessary to meet a competitive threat and as approved by the Alaska Hold Separate Trustee.

- j. Defendants shall continue to provide the same support services, if any, to the Alaska Held Separate Businesses as are being provided to such assets by Defendants as of the date the Consent Decree was signed by Defendants. Defendants may charge the Alaska Held Separate Businesses the same fees, if any, charged by Defendants for such support services as of the date the Consent Decree was signed by Defendants. Defendants' personnel providing such support services shall retain and maintain all Material Confidential Information of the Alaska Held Separate Businesses on a confidential basis, and, except as is permitted by this Attachment, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of Defendants' other businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Alaska Held Separate Businesses.
- k. Except as provided in this Attachment, Defendants shall not employ or make offers of employment to employees of the Alaska Held Separate Businesses during the Hold Separate Period. The Alaska Acquirer of the Alaska Held Separate Businesses shall have the option of offering employment to the Alaska Held Separate Businesses employees. After the Hold Separate Period, Defendants may offer employment to the Alaska Held Separate Businesses employees who have not been employed or whose employment has been terminated by the acquirer of the Alaska Held Separate Businesses. Defendants shall not interfere with the employment of employees of the Alaska Held Separate Businesses by the Alaska Acquirer of the Alaska Held Separate Businesses; shall not offer any incentive to said employees to decline employment with the Alaska Acquirer of the Alaska Held Separate Businesses or accept other employment with Defendants; and shall remove any impediments that may deter employees of the Alaska Held Separate Businesses from accepting employment with the acquirer of the Alaska Held Separate Businesses including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with the Alaska Held Separate Businesses that would affect the ability of employees of the Alaska Held Separate Businesses to be employed by the acquirer of the Alaska Held Separate Businesses.
- l. Notwithstanding the above, Defendants may offer a bonus or severance to those ARCO Alaska Employees that continue their employment with the Alaska Held Separate Businesses until the date that the Alaska Held Separate Businesses are divested.
- m. Defendants shall not exercise direction or control over, or influence directly or indirectly, the Alaska Held Separate Businesses, the Alaska Hold Separate Trustee, the Alaska Management Team, or any of its operations; provided,

however, that Defendants may exercise only such direction and control over the Alaska Held Separate Businesses as are necessary to assure compliance with this Attachment, the Consent Decree and with all applicable laws.

- n. Except to the extent provided in subparagraphs III.5.j, III.5.m, III.5.p, and III.5.q of this Attachment, Defendants shall not permit any non-Alaska Held Separate Businesses employees, officers, or directors to be involved in the operations of the Alaska Held Separate Businesses.
- o. If the Alaska Hold Separate Trustee ceases to act or fails to act diligently and consistent with the purposes of this Attachment, Plaintiffs may appoint a substitute Alaska Hold Separate Trustee in the same manner as provided in Paragraph III of this Attachment.
- p. Until the divestiture of the Alaska Held Separate Businesses is accomplished, Defendants shall ensure that Alaska Held Separate Businesses employees continue to be paid their salaries, all accrued bonuses, pensions and other accrued benefits to which such employees would otherwise have been entitled had they remained in the employment of ARCO during the Hold Separate Period.
- q. Except as required by law or applicable regulatory authorities, and except to the extent that necessary information is exchanged in the course of consummating the Acquisition, carrying out their obligations under the Transition Services Agreement, defending investigations, defending or prosecuting litigation, obtaining legal advice, negotiating agreements to divest assets pursuant to the Consent Decree, or complying with this Attachment and the Consent Decree, Defendants shall not receive or have access to, or use or continue to use, any Material Confidential Information, not in the public domain, about the Alaska Held Separate Businesses. Defendants may receive, on a regular basis, aggregate financial information relating to the Alaska Held Separate Businesses, but only insofar as is necessary to allow Defendants to prepare United States or foreign consolidated financial reports and tax returns. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.
- r. The Alaska Hold Separate Trustee shall report in writing to Plaintiffs concerning the Alaska Hold Separate Trustee's efforts to accomplish the provisions and purposes of this Attachment and the Consent Decree. Included within that report shall be the Alaska Hold Separate Trustee's or the Alaska Management Team's assessment of the extent to which the Alaska Held Separate Businesses are meeting (or exceeding) their projected goals as are reflected in operating plans, budgets, projections or any other regularly prepared financial statements.

IV.

IT IS FURTHER ORDERED that:

- A. Defendants shall notify Plaintiffs at least thirty (30) days prior to any proposed change in the Defendants that may affect compliance obligations arising out of this Agreement and Consent Decree, such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporations.

V.

IT IS FURTHER ORDERED that this Attachment shall be of no further force or effect three (3) business days after the divestiture of the ARCO Alaska Assets pursuant to Paragraph IV or V of the Consent Decree.

SCHEDULE A
ALASKA STATE OIL AND GAS LEASES

ADL-380049

ADL-380050

ADL-380051

ADL-380053

ADL-380054

ADL-380055

ADL-380058

ADL-380059

ADL-380060

ADL-380062

ADL-380087

ADL-380088

ADL-380089

ADL-380090

ADL-380106

ADL-380107

ADL-380052

**SCHEDULE B
EXISTING SUPPLY AGREEMENTS**

- 1. Alaskan North Slope Crude Oil Sales Agreement by and between U.S. Oil and Refining Co. and BP Oil Supply Company.**
- 2. Alaskan North Slope Crude Oil Sales Agreement by and between Tosco Refining Company and BP Oil Supply Company.**
- 3. Alaskan North Slope Crude Oil Sales Agreement by and between Petro Star Inc. and BP Oil Supply Company. (Petro Star Contract Number 2000-1)**
- 4. Alaskan North Slope Crude Oil Sales Agreement by and between Petro Star Inc. and BP Oil Supply Company. (Petro Star Contract Number 2000-2)**
- 5. Alaskan North Slope Crude Oil Sales Agreement by and between Petro Star Inc. and BP Oil Supply Company. (Petro Star Contract Number 2000-3)**
- 6. Alaskan North Slope Crude Oil Sales Agreement by and between Petro Star Inc. and BP Oil Supply Company. (Petro Star Contract Number 2000-4)**
- 7. Alaskan North Slope Crude Oil Sales Agreement by and between Williams Energy Marketing & Trading Co. and BP Oil Supply Company. (Williams Contract Number ABS-129-0001)**
- 8. Alaskan North Slope Crude Oil Sales Agreement by and between Williams Energy Marketing & Trading Co. and BP Oil Supply Company. (Williams Contract Number ABS-129-0002)**
- 9. Alaskan North Slope Crude Oil Sales Agreement by and between Williams Energy Marketing & Trading Co. and BP Oil Supply Company. (Williams Contract Number ABS-129-0003)**
- 10. Alaskan North Slope Crude Oil Sales Agreement by and between Williams Energy Marketing & Trading Co. and BP Oil Supply Company. (Williams Contract Number ABS-129-0004)**
- 11. Alaskan North Slope Crude Oil Sales Agreement by and between Williams Energy Marketing & Trading Co. and BP Oil Supply Company. (Williams Contract Number ABS-129-0005)**
- 12. Alaskan North Slope Crude Oil Sales Agreement by and between Equilon Enterprises LLC and BP Oil Supply Company.**

SCHEDULE C
CONFIDENTIAL LIST: KEY ARCO ALASKA EMPLOYEES
[REDACTED]